

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.02.2021

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P No.18562 of 2020
W.M.P.Nos.23011 & 23012 of 2020

Marie Therese Anandi Vanina Rajarathinam

Petitioner

vs.

1. The Chief Investigation Officer,
Idol Wing CID,
Guindy,
Chennai - 600 032.
2. The Deputy Superintendent of Police,
Idol Wing CID,
Guindy,
Chennai - 600 032.
(Crime No.02 of 2016)
3. The Chief Immigration Officer,
Shastri Bhavan,
Nungambakkam,
Chennai - 600 006.

Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records comprised in the in LOC NO.2018413738 in LOC Ref No.SIC DYN0.15577 dated 15.06.2018 on the file of the respondent, quash the same and consequently direct the respondents to permit her to travel abroad within the time stipulated by this court.

For Petitioner : Mr.R.Karthikeyan

For Respondents: Mr.M.Mohammed Riyaz
Additional Public Prosecutor
for R1 and R2

Mr.K.Subbu Ranga Bharathi
Central Government Standing
Counsel for R3

ORDER

This writ petition has been filed challenging the Look Out Circular issued by the 1st and 2nd respondents and for a consequential direction to the respondents to permit the petitioner to travel abroad.

2.The 1st and 2nd respondents have registered an FIR in Crime No.02 of 2016 for offences under Sections 457(2), 380 (2), 411(2) IPC and 25(1) of Antique and Art Treasures Act, 1972 against one Mansingh, Rajamani and Kumar. During the course of investigation, based on the confession given by one of the accused, the petitioner was also implicated as an accused in this case. The petitioner was arrested and remanded to judicial custody and later she was released on bail and she is presently residing at Puducherry in her husband's house. In the meantime, a Look Out Circular came to be issued against the petitioner in the year 2018. It is submitted that the investigation is still pending and no final report has been filed.

3.The petitioner has approached this Court challenging the Look Out Circular on the ground that she is a citizen of France and she is holding an OCI Card. The further case of the petitioner is that her husband is working as a Visa Officer agent in the Ministry of Home Affairs at France and she also has a ten year old son who is studying at France. The petitioner wants to take care of her husband and son at France and the petitioner is also willing to cooperate with the investigation and comply with any conditions imposed by this Court.

4.An affidavit of undertaking has been filed by the petitioner. The relevant portions in the affidavit are extracted hereunder:

3.The petitioner submits that her Husband Francisque Prabagar is working as Visa Officer Agent in Ministry of Home Affairs in France and they have a 10 year old son by name Yann who is studying in 5 Std lycee Bossuet, Meaux in Paris. The Petitioner submits that the son is in need of Motherly care and affection and further the Petitioner has to take care of her husband and her aged old mother in law who are in France. The Petitioner submits that she has to appear in the Family allowance Authorities of the French Government and a notice was also served to her and the same was affixed in the house in Paris. The Petitioner submits that with the help of her husband she had filled up and sent the same. The Petitioner submits that she should also appear before the Family allowance office in Paris and if she doesn't appear before the family allowance officer in Paris her benefits and her son's benefits will be suspended and since she has a responsibility to take care of a minor child and if she fails the minor child will be placed with the foster care. Further, she humbly submits that due to her separation from the family she is under tremendous mental stress as she has to live alone here.

4. The Petitioner herein undertakes to appear before the Additional Chief Judicial Magistrate, Kumbakonam, on the 14 Working day of March every year pending investigation and she is prepared to return to India to face trial on summons if the final report is filed against her. The Petitioner submits that her Sons Academic year will commence during September and the examinations will be held during the months of - November, February, April & June. Further she has also immovable properties in Puducherry which are the subject matter of Civil Suit for partition in O.S No 202 of 2019 now pending on the file of the IInd Additional District Judge, Puducherry. EA 130/2019 in EP 9/2017 in R.C.O.P 40/2007 now pending on the file of the Principal District Municip. Puducherry, CRP 948/2020 in OS 2368/2013 now pending on the file of the Hon'ble High Court of Madras and she has also roots in India and she has to come to India to instruct them in the Civil Cases also.

5. In the above circumstances, it is humbly prayed that this Hon'ble Court may be pleased to record the above Affidavit of Undertaking and consequently direct the respondents to Permit her to travel abroad within the time stipulated by this Hon'ble Court and pass such further or other orders as this Hon'ble Court may thus deem fit and thus render Justice.

5.The petitioner has also provided details regarding her permanent address, mobile number and land line number for communication at France and the same is extracted hereunder:

Mrs.Marie Therese Anandi Vanina
W/o.Francisque Prabagar
residing permanently at 35 Rue Saint Rémy
77100 Meaux FRANCE
(Landline No:+33160092733,
Mobile No.+3376894168,
Email ID: vanina82@yahoo.com)

6.The learned Additional Public Prosecutor appearing on behalf of the 1st and 2nd respondents submitted that the Look Out Circular is in force and the investigation is in progress and the petitioner must be available as and when required by the respondent police during the course of investigation.

7.The learned Central Government Standing Counsel appearing on behalf of the 3rd respondent submitted that the Look Out Circular issued against the petitioner is valid till 11.06.2021.

8. In the considered view of this Court, the investigation is still pending and the petitioner has valid grounds to visit France which is her permanent place of residence to take care of her ten year old son. The petitioner has also given an undertaking to cooperate with the investigation and has also provided the details of the numbers through which she can be communicated by the respondent police. It is also seen that the petitioner has several immovable properties at Puducherry and there are civil proceedings which are also pending in this regard. The petitioner is also willing to appear on the 1st working day of March every year till the completion of the investigation.

9. In view of the above, this Court is inclined to dispose of this writ petition with the following directions:

- a) The 1st and 2nd respondents are directed to inform the 3rd respondent to keep the Look Out Circular in abeyance. It is left open to the respondent police to extend the Look Out Circular, but however, the implementation of the same shall be kept in abeyance.
- b) The petitioner can be reached by the respondent police as and when required during the course of investigation by calling her in her land line number or mobile number and the petitioner shall cooperate during the course of investigation.
- c) The petitioner is directed to report before the 2nd respondent on the 1st working day of March every year pending the investigation.
- d) If the investigation is completed and final report is filed by including the name of the petitioner as an accused and any summon is issued to the petitioner, the petitioner shall be present before the concerned Court on the date of hearing and
- e) If the petitioner fails to comply with any of the conditions imposed by this Court, it is left open to the 1st and 2nd respondents to revive the Look Out Circular against the petitioner. Consequently, connected miscellaneous petitions are closed. No Costs.

ssr

s/d-
Assistant Registrar (CS-III)

True Copy

Sub-Assistant Registrar

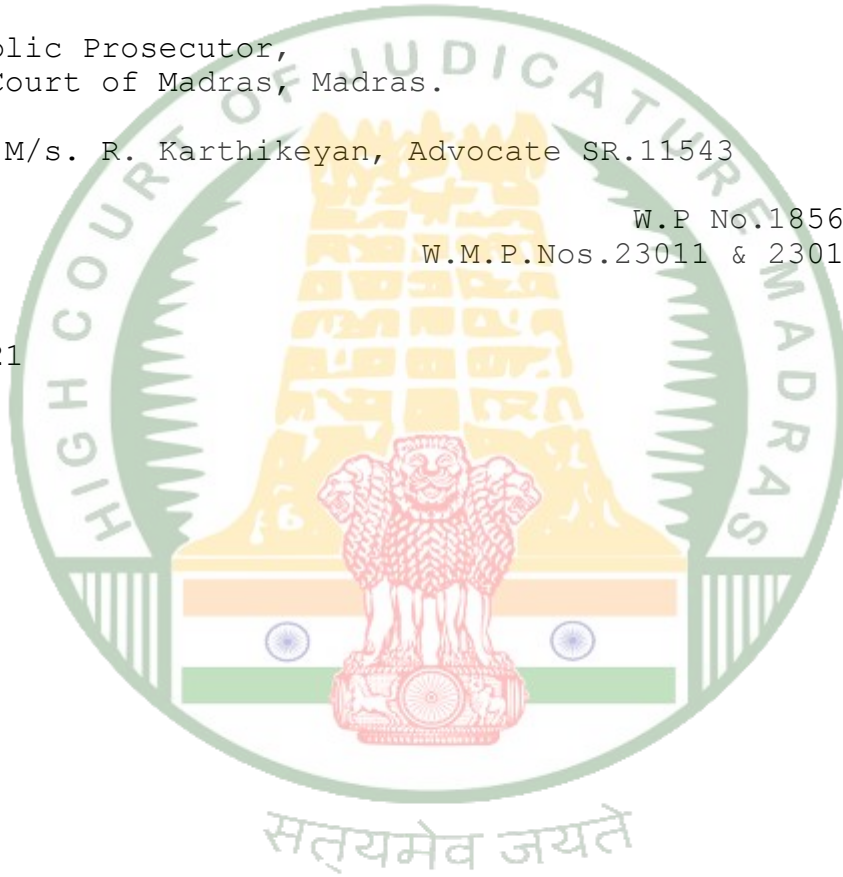
To

1. The Chief Investigation Officer,
Idol Wing CID, Guindy, Chennai - 600 032.
 2. The Deputy Superintendent of Police,
Idol Wing CID, Guindy, Chennai - 600 032.
(Crime No.2/2016)
 3. The Chief Immigration Officer,
Shastri Bhavan,
Nungambakkam, Chennai - 600 006.
 4. The Public Prosecutor,
High Court of Madras, Madras.
- + 1 cc to M/s. R. Karthikeyan, Advocate SR.11543

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JP-II(CO)
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