



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.04.2021

CORAM

THE HONOURABLE MR.JUSTICE G.ILANGO VAN

W.P (MD)No.8722 of 2021

and

W.M.P. (MD)No.6581 of 2021

WEB COPY

Syed Samsudeen

... Petitioner

Vs.

1.The Chief Immigration Officer,
Immigration Department,
Trichy Airport, Trichy.

2.The Commissioner of Police,
O/o. The Commissioner of Police,
Madurai City.

3.The Deputy Commissioner of Police (Law and Order),
O/o. The Deputy Commissioner of Police (Law and Order),
Commissioner of Police Office Campus,
Madurai City.

4.The Inspector of Police (Law and Order),
E1, K.Pudur (Law and Order) Police Station,
K.Pudur, Madurai District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondent No.2 to withdraw or cancel the look out circular issued against the petitioner to the respondent No.1 forthwith by considering the petitioner's representation dated 15.04.2021.

For Petitioner : Mr.S.M.A.Jinnah

For Respondents : Mr.R.Srinivasan,
Government Advocate (Crl. Side)

ORDER

This writ petition has been filed seeking a Writ of Mandamus directing the second respondent to withdraw the look out circular issued against the petitioner by considering his representation dated 15.04.2021.

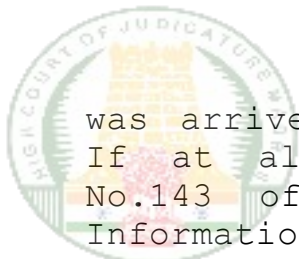
2.The case of the petitioner is that the fourth respondent herein registered cases in Crime Nos.142 and 143 of 2021 against the petitioner. He is running a business in the name and style of



'Ameera Travels' in K.Pudur, Madurai, for the past 13 years. He used to travel Malaysia frequently. Velayutham was appointed by one Ravichandran as Cashier in Masal Wheels Hotel at Petaling Jaya, Malaysia, at the request made by this petitioner. He misappropriated a sum of Rs.3 Lakhs and escaped to India. He lodged a false complaint against the petitioner before fourth respondent herein. Upon which, a case in Crime No.142 of 2021 for the offence under Sections 406 and 402 of I.P.C., and Section 10 r/w. 24 of Immigration Act has been registered. Similarly, the employee of the petitioner by name Periyasamy also misappropriated some amount and he was terminated from employment. He also gave a false complaint before the fourth respondent herein in Crime No.143 of 2021 for the offence under Section 294(b), 323 and 506 (i) of I.P.C., against the petitioner. The petitioner approached this Court by filing Crl.O.P.(MD)Nos.3576 and 3581 of 2021. The defacto complainant namely., Velayutham in Crime No.142 of 2021 appeared before this Court and filed joint compromise memo. On that basis, the petitioner was granted anticipatory bail. But the fourth respondent recommended the second respondent to issue look out circular against this petitioner. When the petitioner went to Trichy Airport to travel to Dubai for business purpose, the first respondent restrained him by stating a look out circular is pending against him. Therefore, he sent a detailed representation dated 15.04.2021 to the first respondent. Since the same was not considered, the present Writ Petition has been filed.

3.Heard, Mr.S.M.A.Jinnah, learned counsel appearing for the petitioner and Mr.R.Srinivasan, learned Government Advocate (Crl. Side) appearing for the respondents.

4.Perusal of the records as well as the from the facts narrated by the learned counsel for the petitioner shows that the petitioner is facing charge in Crime Nos.142 and 143 of 2021 on the file of the fourth respondent herein. The petitioner filed Crl.O.P.(MD)Nos.3576 and 3581 of 2021 before this Court. The petitioner was granted anticipatory bail in Crl.O.P.(MD)No.3581 of 2021, on the basis of the compromise entered between the defacto complainant and the petitioner. Since there is no serious allegation against the petitioner in Crime No.143 of 2021, the petitioner was granted anticipatory bail in Crl.O.P.(MD)No.3576 of 2021 and no condition has been given in the aforesaid orders except banning the petitioner from visiting abroad. More over, it is also the contention of the petitioner herein that the petitioner's case is not covered in the look out circular issued by the first respondent. The only condition, which is now available to the petitioner is that he must appear before the concerned Court when the final report is filed. The process of investigation is not necessary insofar as Crime No.142 of 2021, pending on the file of the fourth respondent, since a compromise



was arrived between the petitioner and the defacto complainant. If at all this requirement is necessary is only in Crime No.143 of 2021. The offences alleged in the said First Information Report are not grievous in nature. Hence, his presence may be required only at the time of trial. On this ground, the petitioner's liberty to go out of the country cannot be denied.

5.The learned counsel for the petitioner brought to the notice of this Court the instructions issued with regard to the issuance of look out circular. They are as under:-

"14Q: What do we mean by a look out circular(LOC)

Ans: LOC is a tool to prohibit restrict/regulate the entry, stay and exit of

(i) all under able persons.

(ii) Whose presence is required to answer criminal charges. (iii)persons notified by interpol.

15Q: How to include a wanted offenders name in the LOC of MHA which in turn will be included in all 23 the International Airport immigration countries.

Ans: SSP/CsP have to write to Addl. DGP(INT) with all details to address the JD/DD(Immgn) MHA New Delhi and all CHIOs(Chief Immigration Officers) of International Airports for left India already but are likely to come back again, or those who are not supposed to leave the country as they are charged as accused in heinous crimes. In Delhi, Mumbai, Chennai & Kolkota, the Intelligence Bureau takes care of the immigration and in other international airports concerned commissioners of police SSP are designated as CHIOs. For instance or Hyderabad International Airport. DCPb. SB is the CHIO.

16Q.What are the 4 broad categories of persons in LOC?

Ans: i) Persons to be arrested.

ii) Persons not to be allowed to land in our country(Ban entry). iii) Persons not to be allowed to leave our country(Ban exit).

iv) Persons whose movements are to be watched and reported.

17Q: What are the parameters to be included in LOC.

Ans: i)Name in full and alias if any.

ii)Passport Number issuing office

iii)Nationality

iv)Date of birth

v)Place of Birth

vi)Parentage



vii) Address with photograph

18Q. What are the various types of persons who can be included in the LOC?

Ans: i) Persons with Terrorist or Militant Links,
ii) Belligerent Foreigners.
iii) Foreigners previously noticed for violations of visa conditions.
iv) Persons required by courts in criminal / civil cases who are absconding.
v) Absconding Offenders wanted by Police / CBI / Customs / Central excise / Directorate of Rev. Intelligence / other agencies."

19Q: What is the upper limit for maintaining a wanted persons name in LOC?

Ans: (i) Visadex cards after expiry of one year will be weeded out unless and otherwise the originator asks for continuance. (ii) MHA warning circulates/look out instructions will be retained permanently until specific instructions are given for deletion."

6. In the light of the above, when both the petitions were allowed, the second respondent ought not to have issued the look out circular. In similar circumstance, this Court in CrI.O.P.No.27741 of 2013, dated 31.10.2013 ordered to withdraw the look out circular.

7. The learned Government Advocate (CrI. Side) appearing for the respondent submitted that in the facts and circumstances of the case, this Court may pass appropriate orders.

8. In both the cases, the petitioner has been granted anticipatory bail. Hence, the look out circular issued by the second respondent has to be withdrawn. A Writ of Mandamus is issued to the second respondent herein to withdraw or cancel the look out circular issued against this petitioner.

9. With this direction, the Writ Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

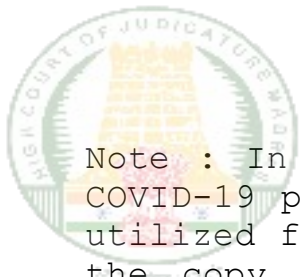
Sd/-

Assistant Registrar(CRL SIDE)

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/ /2021

Sub Assistant Registrar(CS)



Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To:

- 1.The Chief Immigration Officer,
Immigration Department,
Trichy Airport, Trichy.
- 2.The Commissioner of Police,
O/o. The Commissioner of Police,
Madurai City.
- 3.The Deputy Commissioner of Police (Law and Order),
O/o. The Deputy Commissioner of Police (Law and Order),
Commissioner of Police Office Campus,
Madurai City.
- 4.The Inspector of Police (Law and Order),
El, K.Pudur (Law and Order) Police Station,
K.Pudur, Madurai District.

**W.P (MD) No.8722 of 2021
28.04.2021**

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