



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.11.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD)No.20118 of 2021

K.Meenakshi Sundaram

... Petitioner

-Vs-

1.The Commissioner of Police,
Madurai City,
Madurai.

2.The Inspector of Police,
All Women Police Station,
Thallakulam,
Madurai City.
Crime No.25 of 2021

3.M.Kalai Arasi

4.The Regional Passport Authority,
Madurai.
(R4 is suo motu impleaded vide order
dated 29.11.2021)

5.The Regional Passport Officer,
Trichy.
(R5 is suo motu impleaded vide order
dated 30.11.2021)

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the first respondent to revoke the lookout circular issued against the petitioner on 06.05.2021 based on the petitioner's representation dated 26.09.2021.

For Petitioner	: Mr.J.Selvin Rajesh for M/s.Dictum Law Firm
For R1 & R2	: Mr.T.Senthil Kumar Additional Public Prosecutor
For R3	: Mr.V.Kathirvelu Senior Counsel for Mr.S.Satheesh Kumar
For R4 & R5	: Mrs.L.Victoria Gowri Assistant Solicitor General



ORDER

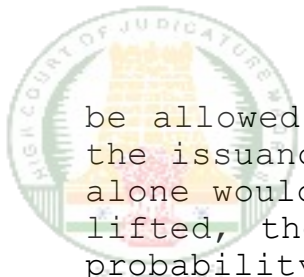
Heard the learned counsel appearing for the petitioner, the learned Additional Public Prosecutor appearing for R1 & R2, the learned Senior Counsel for the third respondent and the learned Assistant Solicitor General for R4 & R5.

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2.The petitioner got married to the third respondent as per Hindu rites and customs on 02.02.2015 at Madurai. A girl child was also born through the said wedlock on 02.11.2016. The petitioner is working as Adjunct Professor at Tampere University, Finland. The marital relationship between the petitioner and the third respondent had come under strain. According to the third respondent, the petitioner had contracted a bigamous marriage and through the said marriage, had begotten a child also. The petitioner originally filed H.M.O.P.No.110 of 2019 before the Sub Court, Melur, Madurai seeking restitution of conjugal rights. Later, he withdrew the same and filed H.M.O.P.No.67 of 2020 before the very same Court for dissolving his marriage with the third respondent. The third respondent filed M.C.No.82 of 2020 before the Family Court, Madurai seeking maintenance for herself and her child. She also filed Cr.M.P.No.5791 of 2020 before the Additional Mahila Court, Madurai. This petition has now been numbered as D.V.No.13 of 2021 and it is pending enquiry. The third respondent also lodged a criminal case on the file of the All Women Police Station, Thallakulam and the same was registered as Crime No.25 of 2021 for the offences under Sections 498(A), 406 and 494 of IPC. Based on the said criminal case, the third respondent applied to the first respondent for issuance of look out circular. The first respondent also issued lookout circular against the petitioner on 06.05.2021. The petitioner is presently in India and he has to urgently report for duty at Finland. Hence, he seeks revocation of the lookout circular issued by the first respondent. The petitioner had given a representation on 22.10.2021 in this regard. Since it did not elicit any response, the present writ petition came to be filed.

3.The aforesaid request is strongly opposed by the third respondent. The learned Senior Counsel appearing for the third respondent would submit that the petitioner had purchased a valuable property in Finland and if he is allowed to leave India, he will not return. In that event, the third respondent and her child will be left without any means. He would also point out that the petitioner had contracted a bigamous marriage. Though the counsel for the petitioner would deny the same, it is obvious from the record that the petitioner had begotten a child through another women by name Akshaya. Whether the petitioner had contracted a bigamous marriage or he is having illicit intimacy with her are the matters for trial Court to decide. But the conduct of the petitioner in begetting a child through the said Akshaya has been more than established. The learned Senior Counsel would further

<https://hcservices.ecourts.gov.in/hcservices/>



be allowed to escape from the clutches of law. He submitted that the issuance of the lookout circular issued by the first respondent alone would ensure that he faces trial. If the lookout circular is lifted, the petitioner is sure to leave India and he will in all probability not return.

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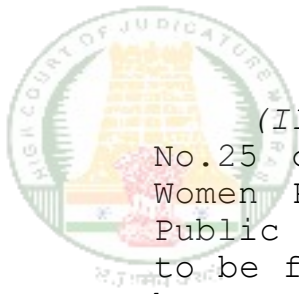
4.The learned Assistant Solicitor General appearing for the passport authority submitted that any order that may be passed by this Court would be complied with in letter and spirit .

5.I carefully considered the rival contentions and went through the materials on record. The petitioner is presently employed in Finland. If the petitioner is not allowed to report for duty, he will in all probability lose his job. In my view, that would not serve the interest of the third respondent also. While the criminal prosecution initiated by the third respondent against the petitioner must of-course be allowed to reach its logical conclusion, the fact remains that unless the third respondent is paid suitable maintenance for herself and her child, ends of justice will not be served. Only if the petitioner is having suitable employment, he can satisfy the maintenance order that may be passed in favour of the third respondent. That apart, the petitioner has a right to travel abroad also. Therefore, I am of the view that the continuation of the lookout circular issued against the petitioner has to be necessarily lifted. At the same time, I cannot brush aside the contentions raised by the learned senior counsel appearing for the third respondent. I am therefore of the view that a balance has to be struck.

6.Therefore, this Writ Petition is disposed of with the following directions:-

(I) The petitioner shall pay a sum of Rs.5,00,000/- forthwith to the third respondent. A further sum of Rs.2,50,000/- shall be paid to the third respondent on or before 15.01.2022 and a sum of Rs.2,50,000/- on 15.03.2022. Thus by 15.03.2022, the petitioner should have paid a sum of Rs.10,00,000/- to the third respondent.

(II) The petitioner is directed to pay a sum of Rs.15,000/- towards monthly maintenance of the third respondent and the child Rekshika. The third respondent through her counsel on record shall furnish her bank details to the petitioner's counsel. Before 7th day of every month, a sum of Rs.15,000/- shall be remitted in the said account. This direction is without prejudice to the third respondent's claim for higher maintenance before the appropriate court in appropriate proceedings.



(III) At the instance of the third respondent, Crime No.25 of 2021 has been registered on the file of the All Women Police Station, Thallakulam. The learned Additional Public Prosecutor states that a positive report is proposed to be filed within two months. Since the petitioner will not be available when the report is filed, the petitioner is directed to execute a special vakalat before the Additional Mahila court / Judicial Magistrate level, Madurai. Such a petition shall be accepted by the court below so that by citing the absence of the petitioner, the criminal case will not be dragged on. The special vakalat to be executed by the petitioner in connection with Crime No.25 of 2021 will hold good even in respect of the subsequent proceedings.

(IV) The petitioner shall furnish all the relevant details regarding his employment at Finland and also his residential address together with Finland mobile details as well as E.Mail ID to the Inspector of Police, All Women Police Station, Thallakulam.

7.The petitioner's passport was originally issued by the fifth respondent in the year 2004. It was renewed by the Indian Embassy at Finland in the year 2014. Since it appears that the fourth respondent also may now have the jurisdiction in the matter, the jurisdictional passport officer whether it is the fourth respondent or the fifth respondent will limit the validity of the petitioner's passport to December 2022. The fourth respondent / fifth respondent is also further directed to send a formal communication to the Indian Embassy at Finland about the undertaking given by the petitioner before this Court that he would regularly participate/attend the various Court proceedings that have been initiated against him by the third respondent.

8.The Indian Embassy at Finland in turn is directed to intimate a concerned immigration authority at Finland about the undertaking given before this Court. This direction is specifically given, since it is hoped that the Finland authority would in the interest of judicial comity ensure that the undertaking given by the petitioner before this Court is complied with scrupulously in letter and spirit.

9.The petitioner has already taken a money back policy (Policy No.309480994) in favour of the child for a sum of Rs.25,00,000/-. The petitioner is directed to pay the monthly premium without any default. The petitioner must ensure that the policy does not lapse on any account. The undertaking affidavit of the petitioner is taken on record.



10. In the event of any breach by the petitioner, it will be open to the third respondent herein to move this Court for initiating contempt proceedings against the petitioner. It is agreed by the petitioner that the third respondent Kalai Arasi/mother of the child will be the guardian and she will be entitled to receive the money as and when it is due for disbursal. The petitioner is also directed to execute a personal bond for Rupees one crore when he is executing the special vakalat. I make it clear that acceptance of the terms now offered in the writ petition will not in any way prejudice the claims of the third respondent in any other proceedings. The first respondent is directed to issue a formal communication for lifting or revoking the lookout circular issued against the petitioner.

11. The Writ Petition is allowed with the aforesaid directions. No costs.

Sd/-

Assistant Registrar (CS I)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)

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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 Commissioner of Police,
Madurai City,
Madurai.
2. The Inspector of Police,
All Women Police Station,
Thallakulam,
Madurai City.
3. The Regional Passport Authority,
Madurai.
4. The Regional Passport Officer,
Trichy.



5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+5 CC to M/s.J.SELVIN RAJESH, Advocate (SR-36613[F] dated
30/11/2021)

+1 CC to M/s.S.SATHEESHKUMAR, Advocate (SR-36639[F] dated
30/11/2021)

W.P. (MD)No.20118 of 2021
30.11.2021

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RS (02.12.2021) 6P 12C