



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.12.2021

CORAM:

**THE HON'BLE MR JUSTICE G.ILANGO VAN**

WEB COPY

Cr1.RC(MD)No.938 of 2021

and

Cr1.MP(MD)No.11269 of 2021

Rajasekara Pandiyan

: Petitioner/Petitioner

Vs.

The State rep. by  
The Inspector of Police,  
Kadaladi Police Station,  
Crime No.260 of 2020

: Respondent/Complainant

**Prayer:** Criminal Revision is filed under Section 397 r/w 401 of the Criminal Procedure Code, against the order passed in Cr.M.P No.817 of 2021, dated 03.12.2021 on the file of the District Munsif-cum-Judicial Magistrate, Kadaladi.

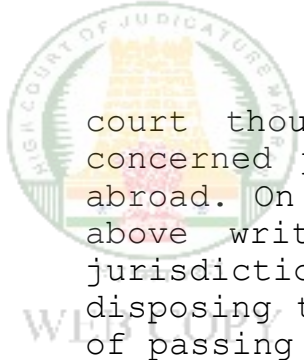
For Petitioners : Mr.M.Ajmalkhan, Senior Advocate  
for Mr.K.Sudalaiyandi

For Respondent : Mr.K.Sanjai Gandhi  
Government Advocate (Cr1. Side)

### **O R D E R**

This criminal revision has been filed against the order passed in Cr.M.P No.817 of 2021, dated 03.12.2021 by the District Munsif-cum-Judicial Magistrate, Kadaladi.

2.The petitioner is facing the charges for the offences under Sections 294(b), 417, 506(i) and 376 IPC. During the pendency of the investigation, he was released on anticipatory bail. Now he wanted to pursue his avocation or business, as the case may be in abroad namely Abu Dhabi. But however, look out circular has been issued against this petitioner upon the above said crime number. He filed writ petition in WP(MD)No.16701 of 2021 along with the other accused person to cancel the look out notice that has been issued against them, by considering the representation made by the petitioner, dated 04.09.2021. This court, after considering the position, has passed an order observing that even though the final report has not been filed so far before the trial court, this court thought it fit to adopt the procedure that has to be followed against the petitioner as stated in the Circular issued in NO.VI/401/1/5/2019, Government of India, Ministry of External Affairs, PSP Division, New Delhi, dated 10/10/2019. Noticing that frequent violation of the conditions imposed by this court, this



court thought it fit to direct the petitioner to approach the concerned jurisdictional Magistrate to get proper permission to go abroad. On that ground, the above said order has been passed in the above writ petition, directing the petitioner to approach the jurisdictional Magistrate Court for appropriate relief. While disposing the matter, this court has also observed that at the time of passing orders, the concerned jurisdictional Magistrate Court may also take into consideration the right of the petitioner to go abroad to pursue his avocation, which is a fundamental right and the court can also impose conditions for ensuring their appearance at the time of investigation and trial and on the order being passed the look out notice that has been issued against this petitioner will automatically deemed to have been cancelled or non-existent.

3. In view of the above said directions, the petitioner approached the District Munsif-cum-Judicial Magistrate, Kadaladi, by filing Cr.M.P No.817 of 2021. That came to be dismissed by the trial court stating that investigation is not completed and if the petitioner is permitted to go abroad, the investigation process may be delayed. So on that ground, it came to be dismissed. Against which, the present criminal revision came to be filed.

4. At the time of hearing, Mr.M.Ajmal Khan, the learned Senior Counsel appearing for the petitioner would submit that the petitioner's fundamental right should not be made to suffer because of the pendency of the investigation. Even though, the investigation is completed and final report has not been filed before the concerned court till now, the only concern of the prosecution can be that the petitioner may abscond during the investigation process and trial. So according to him, to ensure his appearance and presence during the investigation as well as trial process, he is ready to comply with any condition that may be imposed by this court and he will also return to India within three months from the date of the order and for that purpose, he is also ready to give an undertaking affidavit.

5. Considering the fact that right from the judgment of the Supreme Court in the case of Menaka Gandhi, the right to travel abroad is recognized as a fundamental right, which cannot be denied to a person.

6. As rightly contended by the learned Senior Counsel, the concern of the prosecution can be met out by imposing the conditions. So, I am of the considered view that the right of the petitioner to travel abroad cannot be curtailed. As stated above, the petitioner's appearance and his presence must be ensured.

7. So this petition is **allowed** with the following conditions:-

- (i). The petitioner must produce the notary copy of the passport to the jurisdictional Magistrate concerned within a period 15 days from the date of receipt of a copy of this order;



(ii) The petitioner must execute a personal bond for a sum of Rs.1,00,000/- (One Lakh only) along with two sureties for a like sum, which must be the blood relatives of the petitioner to the satisfaction of the District Munsif-cum-Judicial Magistrate, Kadaladi;

(iii) After execution of the bonds, the District Munsif-cum-Judicial Magistrate, Kadaladi, shall issue 'No Objection Certificate' to the petitioner to travel abroad namely Abu Dhabi;

(iv) The petitioner must share his phone/mobile number with the respondent police and must keep in touch with the respondent police till he returns to India; and

(v) The petitioner must also file an undertaking affidavit stating that he will return to India within a period three months from the date of receipt of a copy of this order and he must also inform the trial court about the address of staying in abroad along with phone/mobile number, email.

8. With these above said conditions, the impugned order that has been passed by the District Munsif-cum-Judicial Magistrate, Kadaladi, stands set aside. On the execution of the above said bond, the look out notice that has been issued against this petitioner shall stand automatically cancelled or non-existent. The concerned authorities must act accordingly, and the jurisdictional Magistrate concerned must send proper intimation to the passport authorities as well as to the concerned embassy.

9. With these directions, this criminal revision is **ordered** accordingly. Consequently, connected Miscellaneous Petition is closed.

Sd/-

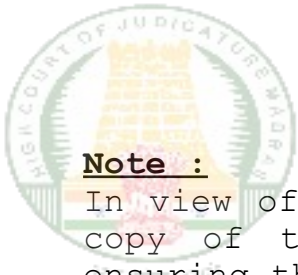
Assistant Registrar (CO)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)

er

**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 District Munsif-cum-Judicial Magistrate,  
Kadaladi, Ramanathapuram District.

2.-do-Through The Chief Judicial Magistrate,  
Ramanathapuram District.

3.The Inspector of Police,  
Kadaladi Police Station, Ramanathapuram.

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

+1 CC to M/s.K.SUDALAIYANDI, Advocate ( SR-39185[F] dated 16/12/2021 )

**Crl.RC(MD)No.938 of 2021**  
**16/12/2021**

RD(23.12.2021) 4P 6C