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CRL.O.P.No.17205 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.04.2022

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.No.17205 of 2018

Abirami

... Petitioner

Versus

1.The Inspector of Police,
W-35, All Women Police Station,
Tambaram, Chennai.

2.Vinothkumar

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to set-aside the order of the learned Judicial Magistrate, Tambaram dated 20.02.2018 accepting sureties under Section 88 of the Code of Criminal Procedure from the 2nd respondent.

For Petitioner	:	Mr.R.John Sathyan
For R1	:	Mr.A.Damodaran, Additional Public Prosecutor
For R2	:	Mr.A.Arumugam

ORDER

This Criminal Original Petition has been filed to set aside the order,
dated 20.02.2018 passed by the learned Judicial Magistrate, Tambaram



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accepting sureties under Section 88 Cr.P.C., from the 2nd respondent.

2.This Court, in continuation and conjunction to the earlier order passed by this Court on 08.02.2022, is passing the following order.

3.As per the order of this Court, dated 08.02.2022, the 1st respondent Police/Inspector of Police, W-35 All Women Police Station, Tambaram, the Assistant Commissioner of Police, Tambaram Range and the Deputy Commissioner of Police, Tambaram District have filed status report separately. All the status report are almost identical.

4.From the status report, it is seen that on 03.02.2022, the 1st respondent Police made a request to the Assistant Commissioner of Police, Tambaram Range to issue Look Out Circular (LOC) against the 2nd respondent, holder of Indian passport No.K7802873. On the same day, the Assistant Commissioner of Police forwarded the request to the Deputy Commissioner of Police, Tambaram District. On 07.02.2022, the Deputy Commissioner of Police, Tambaram District in



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C.No.02/DC/TBM/Camp/2022 sent a requisition to the Assistant Director/SIC, R.K.Puram, Sector-1, B.O.I Hqrs, New Delhi with the prescribed format seeking issuance of LOC against the 2nd respondent as though he is involved in a criminal case registered in Crime No.42 of 2016, for offence under Section 498(A), 406 and Section 4 of the Tamil Nadu Prohibition of Women Harassment Act, on the file of the 1st respondent Police.

5.It is also to be seen that the 1st respondent Police failed to inform the higher officials viz., the Assistant Commissioner of Police, Tambaram Range and the Deputy Commissioner of Police, Tambaram District about completion of investigation in Crime No.42 of 2016 and filing of charge sheet before the learned Judicial Magistrate, Tambaram, taken on file as C.C.No.151 of 2017 against five persons. A2 to A4 in C.C.No.151 of 2017 filed Quash Petition before this Court in CrI.O.P.No.4118 of 2018, in which this Court, by order, dated 09.08.2021 quashed the proceedings against them alone. Thereafter, the 2nd respondent/A1 filed CrI.O.P.No.6595 of 2018 before this Court challenging LOC issued



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against him in Crime No.42 of 2016, this Court, by order, dated 20.03.2018 set aside the LOC, dated 16.11.2016 and allowed the petition, finding that the 2nd respondent appeared before the 1st respondent Police in connection with Crime No.42 of 2016 and the LOC is deemed to have lapsed. This being the factual position, the request for issuance of LOC by the 1st respondent Police on 03.02.2022 is unwarranted. The LOC issued against the 2nd respondent on 03.02.2022 curtails the fundamental right of freedom movement. The procedure formulated in issuance of LOC is vested, at the level of Superintendent of Police and higher officials, who are alone to request opening of LOC. This condition is to safeguard the free movement of the person and further not to misuse the LOC for oblique reasons.

6.This being the position, this Court feels violating the procedures formulated in issuance of LOC, the 1st respondent Police made a request for issuance of LOC against the 2nd respondent on 03.02.2022. The Assistant Commissioner of Police, Tambaram Range and the Deputy Commissioner of Police, Tambaram without any verification of need and



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necessity for issuance of LOC and without requisite documents, mechanically forwarded and approved the request of the 1st respondent Police.

7.Only after this Court pointing out the above mistake, the Deputy Commissioner of Police, Tambaram District filed status report stating that at the time of request by the 1st respondent Police, the Case Diary in Crime No.42 of 2016 did not contain the orders passed in Crl.O.P.Nos.4118 of 2018 & 6595 of 2018. Without ascertaining the factual position, on the request of the 1st respondent Police, he sent request for issuing LOC against the 2nd respondent and now, coming to know about the correct factual position, the Deputy Commissioner of Police, Tambaram District had sent a requisition to the the Assistant Director/SIC, R.K.Puram, Sector-1, B.O.I Hqrs, New Delhi seeking withdrawal of LOC issued against the 2nd respondent and ensure the LOC to be removed as expeditiously as possible.

8.The 1st respondent Police, the Assistant Commissioner of Police,



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Tambaram Range and the Deputy Commissioner of Police, Tambaram in their status report admitted that without following the procedure contemplated in seeking LOC and not knowing the import and seriousness of LOC, they made such request against the 2nd respondent.

9. Finding similar such request in several cases, this Court directed the Director General of Police, Chennai to file report about what is the procedure followed in seeking LOC, whether any prescribed guidelines are available, if not to formulate suitable guidelines plugging the loopholes now prevalent and to set out new guidelines to ensure in future LOC request not issued without application of mind.

10. The status report of the Director General of Police, Chennai filed, wherein it is stated that the Bureau of Immigration, Ministry of Home Affairs, Government of India have issued letter in No.2/SIC/2021(1)-II-2030, dated 06.07.2021 detailing guidelines for issuance of LOC in respect of Indian citizens and foreigners and the same is reminded to the Commissioner of Police and Superintendent of Police



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including all Special Units such as Special Investigation Division, Crime Branch CID, Chennai to follow the guidelines of the Bureau of Immigration.

11.This Court accepts the explanation given by the Director General of Police, Chennai and places hope that in future no such mistakes would occur.

12.The learned Additional Public Prosecutor filed the copy of requisition of the Deputy Commissioner of Police, Tambaram District to the Assistant Director/SIC, R.K.Puram, Sector-1, B.O.I Hqrs, New Delhi, to withdraw the LOC issued against the 2nd respondent.

13.In the present case, the 2nd respondent filed an affidavit narrating the sequence of events and the proceedings pending in Family Court between the 2nd respondent and the petitioner. He further stated that he is working in Singapore making an earning for himself and for his parents. He gave an undertaking that he will personally attend the



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hearings or through his counsel in C.C.No.151 of 2017 henceforth and he will not be cause for any delay. He further gave undertaking that as and when directed by the trial Court, he will appear in person without fail.

14.In view of the above undertaking, this Court finds no reason to entertain the prayer of the petitioner seeking to set aside the order of the learned Judicial Magistrate, Tambaram, dated 20.02.2018 accepting the sureties under Section 88 of Cr.P.C.

15.In the result, this Criminal Original Petition stands dismissed.

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Index: Yes/No

Internet: Yes/No

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To



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- 1.The Judicial Magistrate Court,
Tambaram.
- 2.The Inspector of Police,
W-35, All Women Police Station,
Tambaram, Chennai.
- 3.The Public Prosecutor,
High Court, Madras.



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M.NIRMAL KUMAR, J.

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