



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.04.2022

CORAM :

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

W.P.No.14724 of 2021 and
W.M.P.Nos.15628 & 15629 of 2021

1.M.Khader Aslam @ Aslam Abdul Kadher Shatir
2.S.Kyrunissa @ Kyrunissa Syed Mohamed ...Petitioners

-Vs-

- 1.The Commissioner of Police,
Greater Chennai,
E.V.K's Sampath Salai,
Vepery, Chennai.
- 2.The Deputy Commissioner of Police,
Crime against Women and Children Wing,
(Inside Thousand Lights Police Station Compound),
Greens Road, Chennai - 600 006.
- 3.The Assistant Commissioner of Police,
Vepery Range, Vepery, Chennai.
- 4.The Inspector of Police,
W-5, AWPS Vepery Police Station,
Chennai.
- 5.The Chief Immigration Officer,
26, Shastri Bhavan Annexe,
Haddows Road, Chennai - 600 034.
Tamilnadu.
- 6.Mubashira Mohamed Ajmal ...Respondents
(R6 Suo Motu impleaded vide
order dated 23.08.2021 made in
W.P.No.14724 of 2021)

Prayer : Writ Petition filed under Article 226 of Constitution of India, pleaded to issue a Writ, Order or direction in the nature of Writ of Mandamus, to direct the respondents to withdraw the LOC issued against the petitioners in connection with Cr.No.3 of 2020 pending before the 4th respondent by considering the representation dated 13.03.2021 and 26.06.2021.



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For Petitioners :Mr.I.Abdul Basith

For Respondents :Mr.A.Gokulakrishnan

Addl. Public Prosecutor for R1 to R4.

M/s.Geetha Rameseshan for R6

O R D E R

This writ petition has been filed seeking to withdraw the LOC issued against the petitioners in connection with Cr.No.3 of 2020 pending before the 4th respondent by considering the representation dated 13.03.2021 and 26.06.2021.

2.The learned counsel for the petitioner would submit that on the complaint given by the 6th respondent/defacto complainant, the case in Cr.No.3 of 2020 was registered by the 4th respondent against the petitioners and their son for the offences under Section 498(A) of IPC.

3. He would further submit that the petitioners had approached this Court in Crl.O.P.No.16626 of 2020 and this Court by an order dated 28.10.2020 granted anticipatory bail to the petitioners. Pursuant to the anticipatory bail, the petitioners surrendered before the learned Additional Mahila, Metropolitan Magistrate Court, Egmore to execute the sureties and they have also complied with the direction as directed by this Court. The petitioners have not absconded. Since the petitioners were unnecessarily implicated without there being any specific allegation against them they have also filed Crl.OP.No.2584 of 2021 seeking to quash the FIR as against them and this Court has also granted interim stay for filing final report until further orders. He would submit that the petitioner's son who is arrayed as A1 is absconding. Whereas, the respondent police instead of taking action against the son of the petitioners have directed issuance of LOC against these petitioners and due to the issuance of LOC, the movements of the petitioners are curtailed. The petitioners undertake to abide by the due process of law and they also undertake to appear before the Trial Court as and when the Charge Sheet is filed and the case is taken up for trial. The petitioners do not have any intention of absconding or evading the due process of law.

4. The learned counsel would further submit that the conduct of the respondent in issuing the LOC against the petitioners and the consequent denial of right to travel has infringed and abrogated right to movement guaranteed under the Constitution and in violation to the law.

5. The learned counsel would further submit that object of the LOC is to ensure that a person is available for interrogation



or trial or enquiry. Now the Court has released them on bail subject to certain conditions. The petitioners have furnished sureties and they appeared for interrogation and later the bail conditions have also been relaxed. Thereby, the apprehension that the petitioners may not make themselves available and amenable to law, has gone. The purpose of issuance of LOC in respect of the petitioners is not necessary at this stage.

6. He would further submit that merely because a person is involved in a criminal case, he is not denude of his fundamental rights. It is the fundamental of a person to move anywhere he likes including foreign countries. One's such personal freedom and liberty cannot be abridged. The petitioners cannot be held liable and responsible for the non appearance of their son.

7. In support of his contentions, he would rely on the judgment of this Court in (i) Arockia Jeyabalan Vs. The Regional Passport Officer reported in 2014 (4) LW 841 and (ii) E.V. Perumal Samy Reddy and Ors. Vs. The Deputy Commissioner of Police and another reported in 2013 (2) LW (crl) 628, thereby he would seek to issue direction to withdraw the LOC.

8. The learned Additional Public Prosecutor appearing for the respondents 1 to 4 would submit that the petitioners and their son are accused in Cr.No.3/2020 registered by the fourth respondent for the offences under Section 498(A) of IPC. He would submit that the petitioner's son is evading arrest and still absconding and thereby the respondent has sent a request to the authorities to initiate LOC against the petitioners. However, he would submit that the petitioners have been granted anticipatory bail and they have furnished sureties and they have also complied with the conditions imposed by this Court and later the condition has also been relaxed.

9. The learned counsel appearing for the sixth respondent/defacto complainant would submit that on the complaint given by the sixth respondent a case in Cr.No.3 of 2020 for the offences under Section 498(A) of IPC has been registered. He would submit that the first accused is evading arrest and still at Dubai. He has obtained loan in the names of the 6th respondent, thereby she is unable to go to Dubai. There are totally five children born out of the wedlock, the first three children are in Dubai living with the first accused, the other two children are living in India with the defacto complainant, she would object for withdrawal of the LOC.

10. The learned counsel for the petitioner would submit that the petitioners undertakes to appear before the Trial Court as and when the case is taken up for Trial and undertakes to furnish



the E-mail ID.

11. Heard the learned counsel for the petitioners and the learned Additional Public Prosecutor for the respondents 1 to 4 and the learned counsel for the 6th respondent.

12. Admittedly, in this case the petitioners are arrayed as A2 and A3 and they were not absconding and they have been granted anticipatory bail pursuant to which they have surrendered before the respondent/police and they have also duly complied with the conditions imposed by this Court. Further, it is stated that the petitioners have filed petition to quash the FIR petition and this Court has also granted interim stay in CrI.OP.No.2584 of 2021 not to file the final report against the petitioners till the disposal of the above case.

13. In Arockia Jeyabalan Vs. The Regional Passport Officer reported in 2014 (4) LW 841 this Court held as under:-

"11. Therefore, it is clear that the only reason for the police making a request to the Bureau of Immigration to issue a Look Out Circular against the petitioner was the registration of a complaint against him and his non availability for interrogation. The purpose of issue of the Look Out Circular now stands served, with the interception of the petitioner at the Bangalore Airport on 31.1.2014 and his arrest and detention to judicial custody. The petitioner has now come out on bail and has also complied with the bail conditions.

12. The object of a Look Out Circular is to ensure that a person is available for interrogation or trial or enquiry. Now that the Court has released him on bail subject to certain conditions as well as sureties, the apprehension that the petitioner may not make himself available and amenable to law, has gone.

13. Therefore, W.P.No.22205 of 2014 is allowed and the Look Out Circular is quashed, in as much as the purpose of issuing the same has now been served and the petitioner has subjected himself to the long arm of the law."

14. Further, this Court in E.V.Perumal Samy Reddy and Ors. Vs. The Deputy Commissioner of Police and another reported in 2013 (2) LW (CrI) 628 has held as under :-

"9. It is basic that merely because a



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person is involved in a criminal case, he is not denude of his fundamental rights. It is the fundamental of a person to move anywhere he likes including foreign countries. One's such personal freedom and liberty cannot be abridged. In the celebrated in MENAKA GANDHI Vs. UNION OF INDIA [AIR 1978 SC 597], the Hon'ble Supreme Court upheld the constitutional right of persons to go abroad. The phrase no one shall be deprived of his 'life and liberty' except procedure established by law employed in Article 21, had deep and pervasive effect on fundamental right and human right. MENAKA GANDHI (supra) ushered a new era in the annals of Indian Human Rights Law. It had gone ahead of American concept of 'Due Process of Law'.

15. In view of the above, this writ petition stands allowed. The respondents 2 to 4 are directed to withdraw the Look Out Circular issued against the petitioner in connection with Cr.No.03/2020 within a period of three weeks from the date of receipt of a copy of this order. The petitioners are at liberty to travel abroad. The petitioners shall furnish their E-mail ID to the 4th respondent. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS-CCC)

//True copy//

Sub Assistant Registrar

jas/tsh

To

- 1.The Commissioner of Police,
Greater Chennai,
E.V.K's Sampath Salai,
Vepery, Chennai.
- 2.The Deputy Commissioner of Police,
Crime against Women and Children Wing,
(Inside Thousand Lights Police Station Compound),
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- 3.The Assistant Commissioner of Police,
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4.The Inspector of Police,
W-5, AWPS Vepery Police Station, Chennai.

5.The Chief Immigration Officer,
26, Shastri Bhavan Annexe,
Haddows Road, Chennai - 600 034. Tamilnadu.

6.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.I.Abdul Basith, Advocate SR.No.22909

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MT (CO)
GMY (22/04/2022)