



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :16.03.2022

CORAM :

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No.20672 of 2021 and
Crl.M.P.No.11265 of 2021

S.Priyakrishnan ...Petitioner/ Accused No.1

-Vs-

1.The State

Rep by the Inspector of Police,
All Women Police Station,
Chidambaram.
Cuddalore District.
Crime No.1 of 2020.

2.The Regional Passport Officer,

Municipal Water Tank Building,
W Blvd Road, Near to Sri Kottai Muniswarar Kovil,
Marakadai, Trichirapalli.
(R2 Suo-Moto impleaded as per order
in Crl.O.P.No.20672/2021 dated 18.11.2021.)

..Respondents

Prayer : Criminal Original Petition is filed under Section 482 of the Criminal Procedure Code, praying to call for the records relating in C.M.P.No.542 of 2020 in C.C.No.7 of 2020 on the file of the Judicial Magistrate No.II, Chidambaram and set aside the order dated 17.07.2020.

For Petitioner : Mr.I.Abrar Mohamed Abdullah

For Respondents : Mr.A.Gokulakrishnan
Additional Public Prosecutor for R1
Mr.K.Subbu Ranga Bharathi for R2
Mr.T.Sathyamurthy
for Mr.Shanmugam for Defacto
complainant.

O R D E R

This petition has been filed seeking to call for the records relating in C.M.P.No.542 of 2020 in C.C.No.7 of 2020 on the file of the Judicial Magistrate No.II, Chidambaram and set aside the order dated 17.07.2020.



WEB COPY

2. The learned counsel for the petitioner would submit that the 1st respondent has registered a case in Cr.No.1/2020 against the petitioner, his parents and two other accused for the offences under Sections 498A, 294(b), 506(i) of IPC and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act 2002, on the complaint of one Sundararajan/defacto complainant is the father-in-law of the petitioner. The marriage between the petitioner and the defacto complainant's daughter/ S.Kiruthika was solemnized on 20.05.2018. After marriage the spouses were settled at USA. When they came to India for short visit, matrimonial dispute arose between them. Thereafter, the petitioner left to USA. Meanwhile, the father-in-law of the petitioner had given a complaint and the petitioner was called for enquiry, the petitioner had filed an application for seeking anticipatory bail in CrI.O.P.No.29181 of 2019 and this Court by an order dated 04.11.2019 granted anticipatory bail to the petitioner subjecting himself to enquiry. The petitioner's parents applied for anticipatory bail and the same was also granted to them. Based on the complaint against the petitioner FIR was registered on 13.01.2020 in Crime No.1/2020. The case being a matrimonial dispute, the respondent without conducting due enquiry, in a hasty manner within 17 days of registration of case filed the final report on 30.01.2020 and the case was immediately taken up on file in C.C.No.7/2020 on the file of the learned Judicial Magistrate-II, Chidambaram. Whereas even without service of summons on the petitioner, on 04.07.2020, the 1st respondent had sent a requisition letter to the Judicial Magistrate-II Chidambaram seeking to impound the petitioner's passport without issuing any notice. The learned Judicial Magistrate -II, Chidambaram had passed the impugned order on 17.07.2020 directing the Superintendent of Police to issue Look Out Circular.

3. The learned counsel for the petitioner would further submit that the petitioner reliably understand that the matter has been dealt with in a hasty manner due to the undue influence of Mr.Rajendran and Mr.Chandrasekaran, practicing advocates before the trial Court who are closely related to the petitioner's wife.

4. Further, the learned counsel for the petitioner would submit that the petitioner is now being duly represented by the counsel before the Trial Court and he undertakes that he will be present before the Court, whenever his presence is necessary and he will also appear whenever trial court insisted upon his appearance. On 17.07.2020, the Judicial Magistrate had passed the order to the Superintendent to issue look out circular and subsequently, the Magistrate once again in haste had issued fresh communication directly to the Regional Pass Port Officer, Trichy to revoke the passport of the petitioner.



5. Earlier, Tr.C.M.Ps have been filed by the petitioner and his wife seeking to transfer HMOP.No.902 of 2019 pending on the file of the Sub-Court, Tambaram and HMOP.No.31 of 2020 on the file of the Sub-Court, Chidambaram respectively and this Court while disposing of the application in Tr.C.M.P.Nos.110 & 420 of 2020 had taken note of the conduct of the learned Judicial Magistrate -II, Chidambaram and this Court has also found that the rash and over speed with which the learned Judicial Magistrate No.II, Chidambaram has proceeded in the matter had evidently exemplified his biased behavior.

6. As against the common order passed in Tr.C.M.Ps., the wife of the petitioner had filed SLP.(c).No.13797 and 13798 of 2021, the Hon'ble Apex Court by an order dated 11.12.2021 had confirmed the order passed by this Court. He would submit that the learned Judicial Magistrate without following the procedure prescribed had directed for issuance of Look Out Circular and revocation of passport of the petitioner. He would submit that the petitioner is not an absconder and he undertakes to abide by any stringent condition that may be imposed by this Court and he would cooperate for speedy disposal of the case and undertakes to appear before the concerned Court as and when required.

7. The learned Additional Public Prosecutor would submit that the petitioner is an Indian Citizen holding H1B-Visa, and the trial Judge apprehending that the petitioner will not be available for Trial had directed the Superintendent of Police to issue a Look Out Circular. He would further submit that the Look Out Circular was issued on 19.02.2020, which is valid for one year and thereafter it has not been renewed.

8. Mr.V.K.Sathyamoorthy, representing the learned counsel appearing for the defacto complainant would submit that the petitioner though being an Indian Citizen is holding H1B Visa and he evaded the summons issued from the Court and thereby in order to make him to appear before the Court, the Judicial Magistrate on the request of the respondent police had directed for issuance of Look Out Circular against the petitioner.

9. Mr.K.Subbu Ranga Bharathi, learned counsel appearing for the 2nd respondent would submit that based on the direction of learned Judicial Magistrate, the petitioner was issued with a show cause notice to surrender the pass port by an order dated 29.07.2020. Subsequently, the petitioner had approached the Madurai Bench of this Court in W.P(MD).No.8455 of 2020 and this Court by an order dated 31.07.2020 had directed the Regional Passport Officer, Trichy put the impounding order on hold. Based on which the 2nd respondent by an order dated 10.08.2020 released the impounding of the passport. He would further



submit that as on today the passport is active and valid and no look out circular is pending as on today and thereby there is no impediment for the petitioner to travel in and out of India and there is no impediment for the petitioner in renewing the passport also.

10. Heard the learned counsel for the petitioner and the learned counsel for the respondents and the learned counsel for the defacto complainant and perused the materials available on records.

11. The FIR has been registered in this case on 13.01.2020 and even without conducting a proper enquiry a final report has been filed within a period of 17 days on 30.01.2020 and the case had been taken up on file in in C.C.No.7/2020. Even without service of summons the learned Magistrate on the request made by the 1st respondent on 04.07.2020 has passed the impugned order on 17.07.2020. In the opinion of this Court, the order passed by the learned Magistrate without following procedure as contemplated under law is improper. Further, this Court in Tr.C.M.P.Nos.110 & 420 of 2020 dated 04.12.2020 has also found fault and deprecated the conduct of the learned Magistrate.

12. Taking into consideration the submissions made and the facts and circumstances the impugned order is set aside. The petitioner shall file an affidavit of undertaking that he will be duly represented by a counsel before the trial court on all hearing dates and the petitioner shall be present on the first day of appearance, on the date fixed for receiving the copies, initial questioning, reply to charges and questioning under Section 313 of Cr.P.C., and at the time of passing judgement and whenever insisted upon by the trial court.

13. In the result, the criminal original petition stands allowed by setting aside the order dated 17.07.2020 made in CMP.No.542 of 2020 in CC.No.07 of 2020 on the file of the Judicial Magistrate No.II, Chidambaram. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-IX)

//True Copy//

Sub Assistant Registrar

jas/tsh



To

1.The Judicial Magistrate No.II, Chidambaram.

2.Do Through The Chief Judicial Magistrate,
Cuddalore District.

3.The Inspector of Police,
All Women Police Station,
Chidambaram.
Cuddalore District.

4.The Regional Passport Officer,
Municipal Water Tank Building,
W-Blvd Road, Near to Sri Kottai Muniswarar Kovil,
Marakadai, Trichirapalli.

5.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.I.Abrar Mohamed Abdullah, Advocate, S.R.No.17987

+1cc to M/s.S.A.Shamugam, Advocate, S.R.No.18066

Cr1.O.P.No.20672 of 2021 and
Cr1.M.P.No.11265 of 2021

AJS (CO)
SB(04/04/2022)