

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.01.2022

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

W.P.NO.27159 OF 2021

Augustine Pappaiya

... Petitioner

Versus

1. The FRRO,
Foreigners Regional Registration Officer,
Bureau of Immigration,
Shastri Bhavan,
26, Haddows Road,
Chennai - 600 006.

2. The Deputy Commissioner of Police,
Thousand Lights,
Chennai - 600 006.

3. The Inspector of Police,
W-30, All Women Police Station,
Poonamallee,
Chennai - 600 056.

... Respondents

PRAYER:-

Writ Petition filed under Section 226 of the Constitution of India for issuance of a Writ of Mandamus directing the respondents herein to withdraw/rescind/cancel the LOC (Look Out Circular) issued to the petitioner in respect of his Old Passport No.V3866262, New Passport No.V3866262, within a stipulated period.

For Petitioner : Mr.K.Govi Ganesan

For Respondents : Mr.E.Raj Thilak
Additional Public Prosecutor

ORDER

The petitioner has filed this Criminal Original Petition seeking to direct the respondents herein to withdraw/rescind/cancel the LOC (Look Out Circular) issued to the petitioner in respect of his Old Passport No.V3866262, New Passport No.V3866262, within a stipulated period.

2. The case of the petitioner in brief is as follows:

(i) The petitioner is a truck driver, by profession and was working in Singapore. Earlier the petitioner married one Elizabeth Rani on 28.06.2014 in a Church at Karayanchavadi and subsequently differences cropped up between them, for which the said Elizabeth Rani lodged a complaint in Crime No.30 of 2019 for offence punishable under Sections 406, 498 (A), and 506 (i) I.P.C. Pending investigation, the 3rd respondent had made request for issuance of Look Out Circular (LOC), who inturn by his communication in C.No./Camp/DC-CWC/2019 dated 31.12.2019 requested the 1st respondent i.e., the Bureau of Immigration (Ministry of Home Affairs) Government of India to issue LOC, pursuant to which the 1st Respondent had issued LOC in R.C.No.01/DCC/AWC/LOC/2020 dated 02.01.2020 against the petitioner.

(ii) It is further stated that pending investigation, the issue between the petitioner and his Wife Elizabeth Rani got compromised and resolved and this Court by an order dated 28.09.2020 in Cr1.O.P.No.3202 of 2020 quashed the Crime No.30 of 2019 and even prior to that the petitioner got divorce in O.P.No.620 of 2020 on 23.09.2020 by the V Additional Principal Judge, Family Court, Chennai. Despite the quashing of the FIR, the LOC still remains in the same condition. Due to that, the petitioner is unable to travel for his avocation to Singapore and make his living. Thereafter, the petitioner sent representation to the respondents on 17.11.2021 to lift the LOC. In the meanwhile, the petitioner's passport was to expire on 12.12.2021 and he has made request for issuance of new Passport bearing No.V3866262 as per his request new passport was issued, which is valid till 30.11.2031. The petitioner's apprehension is that, unless the LOC is quashed or withdrawn the same would reflect in the immigration records and he would not have free access of travel. Hence, the present Criminal Original Petition is filed.

3. The learned Additional Public Prosecutor would submit that the case in Crime No.30 of 2019 was quashed in Cr1.O.P.No.3202 of 2020 by order of this Court dated 28.09.2020 and following the same the Inspector of Police, All Women Police

Station, Poonamallee Chennai by communication dated 23.06.2021 requested the FRRO, Bureau of Immigration, No.26, Haddows Road, Chennai - 600 006 to cancel the LOC issued against the petitioner.

4. The learned counsel appearing for the petitioner produced the letter of police Department seeking rescindment of LOC, settlement agreement entered between the petitioner and his estranged wife.

5. Heard both sides. Perused the records.

6. The Hon'ble Apex Court in catena of judgments following the case of "Menaka Gandhi Versus Union of India reported in AIR 1978 SC 597" consistently held that it is a constitutional right of a person to travel abroad and no one should be deprived of his life and liberty except the procedure established in law. This Court following same in the case of "E.V.Perumalsamy Reddy and others Versus State represented by the Deputy Commissioner of Police reported in 2014 (1) MLJ 125" and in the case of "S.Martin Versus the Deputy Commissioner of Police, Central Crime Branch reported in 2014 (1) MLJ 647" held that once a person is granted bail, no question of sustaining Look Out Circular would arise, unless the person is involved in any heinous crimes and in terrorist activities. In this case, the issues is a matrimonial dispute between the husband and wife.

7. Admittedly, the learned V Additional Principal Judge, Family Court, Chennai has granted divorce to the petitioner on 23.09.2020 in O.P.No.620 of 2020 and the FIR in Crime No.30/2019 was quashed by this Court on 28.09.2020 in CrI.O.P.No.3202 of 2020 and thus as on date the petitioner has got no Criminal case pending against him and the LOC was issued pursuant to the complaint in Crime No.30 of 2019, which was quashed. Hence, no useful purpose would be served in keeping the LOC pending.

8. In view of the same, this Court quashes the LOC (Look Out Circular) issued to the petitioner in respect of his Old Passport No.V 3866262, New Passport No.V3866262. The petitioner to have unhindered, exit and entry, free passage of travel.

9. This Criminal Original Petition is disposed of accordingly.

Sd/-

Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

rap/arr

To

1. The FRRO,
Foreigners Regional Registration Officer,
Bureau of Immigration,
Shastri Bhavan,
26, Haddows Road,
Chennai - 600 006.
2. The Deputy Commissioner of Police,
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Chennai - 600 006.
3. The Inspector of Police,
W-30, All Women Police Station,
Poonamallee,
Chennai - 600 056.
4. The Public Prosecutor,
High Court, Madras.

Copy To:-

The Bureau of Immigration,
(Ministry of Home Affairs),
Government of India,
New Delhi.

+1cc to Mr.K.Govi Ganesan, Advocate, S.R.No.6201

W.P.NO.27159 OF 2021

KG(CO)
PBS/08/03/2022