



Crl.O.P.No.29079 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: **22.12.2022**

CORAM

THE HONOURABLE MR. JUSTICE G.CHANDRASEKHARAN

Crl.O.P.No.29079 of 2022

Arun Amirthalingam

... Petitioner

Vs.

1. The Superintendent of Police,
Namakkal,
Namakkal District.

2. Inspector of Police,
AWPS - Namakkal,
Namakkal District.

3. Assistant Foreigner's Regional Registration Officer,
Bureau of Immigration,
Chennai Airport,
Chennai.

4. The Chief Immigration Officer,
No.26, Sasthiri Bhavan, Haddows Road,
Nungambakkm,
Chennai - 600 000.

.. Respondents

PRAYER: This Criminal Original Petition filed under Section 482 of Cr.P.C., to direct the 1st respondent to withdraw the Look Out Circular issued by the 1st respondent in Reference No. RC.No.D1/38/DCRB/2019 dated 28.12.2019 vide F.I.R.No.20 of 2019 dated 28.12.2019 for offences under Section 294(B), 498A, 506(i) of IPC on the file of the 2nd respondent.



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For Petitioners : M/s.K.R.Samratt
For R1 &R2 : Mr.S.Santhosh
Government Advocate (Criminal side)

ORDER

This Criminal Original Petition has been filed to direct the 1st respondent to withdraw the Look Out Circular issued by the 1st respondent in Reference No. RC.No.D1/38/DCRB/2019 dated 28.12.2019 vide F.I.R.No.20 of 2019 dated 28.12.2019 for offences under Section 294(B), 498A, 506(i) of IPC on the file of the 2nd respondent.

2. This matter was heard on 21.12.2022 and this Court directed the learned counsel for the petitioner to file an affidavit of undertaking that he would co-operate with the smooth conduct of the case and adjourned the matter on 22.12.2022. Though, the matter was not listed today (22.12.2022), at the instance of the learned counsel for the petitioner, matter was taken up for hearing and the following order is passed.

3. The learned counsel for the petitioner submitted that a case in Crime No.20 of 2019 was registered against the petitioner and four others for the offence under Sections 294(b), 498(A), 506(1) of IPC by All Women Police Station, Namakkal. After investigation, final report was filed and the case has



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been taken on file in C.C.No.247 of 2022 on the file of the learned Judicial Magistrate/Additional Mahila Court, Namakkal and the case is pending for examination of witnesses. So far as the co-accused Goswthami and Subishvasu are concerned, they filed a quash petition before this Court in Crl.O.P.No.22232 of 2021 dated 19.01.2022 and this Court ordered interim stay of further proceedings in C.C.No.347 of 2021. The petitioner is now working in Germany and he came to India to participate in the trial of the case and to meet his ailing parents. The Look Out Circular was issued against the petitioner in Reference No.RC.No.D1/38/DCRB/2019 dated 28.12.2019. Thereafter, the petitioner directly appeared before the trial Court and executed the sureties. The petitioner has no information about the revival or extention of the Look Out Circular. However, based on the earlier circular, he is prevented from leaving India and travel to Germany to join his work place. The petitioner was intercepted and detained at Chenni Airport on 19.10.2022 and on the undertaking given by him, he was let off with a direction to appear before the Court and execute the bond. Now, the petitioner apprehends that, if he proceeds to Germany, he will again be apprehended on the basis of the Look Out Circular issued in the year 2019.



4. In support of his submissions, he produced the order passed by this Court in Crl.O.P.No.7978 of 2021 on 07.10.2021, wherein it is held that, in respect of matrimonial dispute, issuance of Look Out Circular should be avoided. The relevant paragraphs are as follows:

12. In a case of matrimonial dispute, the Hon'ble Apex Court by catena of judgments given guidelines about the manner in which matrimonial cases to be dealt. In the case of " Rajesh Sharma and others Versus State of Uttar Pradesh and another reported in (2018) 10 SCC 472" the Hon'ble Apex Court issued guidelines that ' In respect of persons ordinarily residing out of India impounding of passports or issuance of Red Corner Notice should not be a routine. Further, impounding of passport or issuance of red corner notice should be avoided'. Admittedly, in this case, there is no allegation involving physical injuries of death.

14. It could be seen that it is only a matrimonial dispute between the petitioner and the defacto complainant. Hence, the respondents 1 to 3 are hereby directed not to request any Look Out Circular against the petitioner and the defacto complainant and the 4th respondent not to impose any restriction on the movement of the petitioner in and out of India, unless it is absolutely necessary. The requisition and restriction if any should be by a well



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reasoned one.

5. It is useful to refer to the order in Crl.O.P.No.22194 of 2021 dated 31.01.2022, wherein it is held as follows:

*"10. When the NBW warrant issued against the petitioner is recalled there is no purpose of keeping LOC pending. 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."*

6. The learned Government Advocate (Crl. Side) opposes this petition on the ground that, if Look Out Circular issued against the petitioner is canceled,



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there is no scope for the petitioner to participate in the trial, which will result in delaying the process of trial.

7. Considered the rival submissions. There is no material produced to show that whether any Look Out Circular is extended after 2020. In view of the orders referred above, it is clear that in respect of matrimonial dispute, no question of issuing Look Out Circular as a routine. Unless the person is involved in any heinous crime and in terrorist activities, there is no question of sustaining the Look Out Circular. This case involves matrimonial dispute. Further, the petitioner has given affidavit of undertaking that he will co-operate for the trial by appearing in person as and when required and also through his Counsel. **Therefore, the Look Out Circular issued by the 1st respondent in Reference No. RC.No.D1/38/DCRB/2019 dated 28.12.2019 is ordered to be canceled with immediate effect.** The petitioner is directed to co-operate in conduct of trial by appearing in person before the trial Court, whenever required. **The affidavit filed by the petitioner shall form part and parcel of this order.**



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8. With the above observations and directions, this Criminal Original

Petition is disposed of.

22.12.2022

Sma

Index:Yes/No

Speaking/Non speaking order

To

1. The Superintendent of Police,
Namakkal,
Namakkal District.
2. Inspector of Police,
AWPS - Namakkal,
Namakkal District.
3. Assistant Foreigner's Regional Registration Officer,
Bureau of Immigration,
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4. The Chief Immigration Officer,
No.26, Sasthiri Bhavan, Haddows Road,
Nungambakkm,
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- 5.The Public Prosecutor,
High Court of Madras.



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G.CHANDRASEKHARAN.J.,

Sma

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