



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.04.2022

CORAM

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P(MD)No.3969 of 2022

S.Shine

... Petitioner

Vs

1.The Superintendent of Police,
Kanyakumari District,
Nagercoil.

2.State by,
The Inspector of Police,
AWPS, Colachel,
Kanyakumari District.

3.Foreigner Regional Registration Officer (FRRO),
Bureau of Immigration Ministry of Home Affairs,
Government of Tamil Nadu,
T.C.30/1398-3, First Floor,
Amrith Plaza,
Nalumukku, Pettah P.O.,
Thiruvananthapuram - 695 024.

4.The Secretary,
Ministry of Home Affairs,
Government of India,
South Block,
New Delhi - 110 001.

5.Sujatha ... Respondents
(R - 5 impleaded vide order dated 11.04.2022
in W.M.P(MD)No.5289 of 2022)

PRAYER: Writ Petition filed under Article 226 of Constitution of India, to issue a writ of Mandamus, directing the first respondent to withdraw the lookout circular against the petitioner with regard to the petitioner's Passport No.T2498573 and from preventing the petitioner for travelling abroad and detaining and arresting in any immigration (entry or exit) point in India and interfering with his freedom of movement.

For Petitioner	: Mr.S.Suresh Kumar
For RR 1 & 2	: Mr.K.Sanjai Gandhi
	Government Advocate (Crl. Side)
For RR 3 & 4	: Mrs.Victoria Gowri
	Additional Solicitor General
For R - 5	: Mr.P.T.Ramesh Raja



ORDER

The Writ Petition has been filed seeking a direction to direct the first respondent to withdraw the lookout circular issued as against the petitioner with regard to the petitioner's Passport No.T2498573 and from preventing the petitioner for travelling abroad and detaining and arresting in any immigration (entry or exit) point in India and interfering with his freedom of movement.

2.The petitioner's wife had lodged a complaint against the petitioner and two others on the ground of cruelty. The said complaint was registered in Crime No.14 of 2021 for the offences under Sections 294(b), 323, 406 and 498(A) of I.P.C, in which the petitioner is arrayed as the first accused. After completion of investigation, the first respondent had filed the final report and the same has been taken cognizance in C.C.No.241 of 2021 on the file of the learned Judicial Magistrate, Eraniel. While pending the investigation, the petitioner failed to co-operate with the investigation and as such, the lookout circular was issued as against the petitioner, so as to prevent him from proceeding to abroad.

3.The learned counsel appearing for the petitioner would submit that due to the lookout circular, the petitioner is not able to report for his duty in Dubai and the defacto complainant had filed a DVC complaint in D.V.C.No.23 of 2021 on the file of the learned Additional Mahila Court cum Judicial Magistrate, Nagercoil.

4.The learned Government Advocate (Crl.Side) submitted that after taking cognizance for the offences under Sections 294(b), 323, 406 and 498(A) of I.P.C in C.C.No.241 of 2021 on the file of the learned Judicial Magistrate, Eraniel, charges were framed as against the accused persons and the matter was posted for trial.

5.The purpose of the lookout circular has been met and it is relevant to rely upon the order passed in Crl.O.P.No.16924 of 2017, dated 13.11.2017 (Kathirava Moorthy Vs. The Inspector of Police), in which the relevant portion of the said order reads as follows:

"5.There is nothing on record to show that the LOC was extended and even assuming that the LOC is extended, it is seen that pursuant to the LOC, when the petitioner had landed in India he was detained on the strength of the LOC and handed over to the Investigating Officer. The purpose of the LOC is for securing the accused who has absconded for the purpose of investigation. In the present case the purpose for which the LOC was issued has been met. In view of the fact that the petitioner was detained and handed over to the Investigating officer and when the purpose is achieved it can be said that the LOC has abated.

6.The above position is akin to situations where bailable or non-bailable warrants are issued. Once when the accused is secured on the strength of such warrants and produced before the Court, the warrant lapses, since



the purpose for which it was issued had been served. Similar is the situation, in case of LOCs. If at all the presence of accused is required thereafter, it would give a fresh cause of action and hence a fresh LOC is required to secure the accused. I had an occasion to deal with a similar propositions in a judgement in S.Santhosh Kumar Vs The Superintendent of Police passed in WP.No.17873 of 2017 and Crl.OP.No.13774 of 2017 dated 31.08.2017. In the said order the following observations were made:-

"In the decision relied on by the learned senior counsel for the petitioner in (Arockia Jeyabalan vs. The Regional Passport Officer, Mount Road, Chennai and others) 2014 4 Law Weekly 841 this Court had an occasion to consider that validity of the lookout circular. In that case, based on the look out notice issued by the respondents therein, the petitioner therein was arrested and remanded to judicial custody. Thereafter, the petitioner therein was released on bail. Therefore, it was held that the object of the Look out Circular is to ensure the presence of a person for interrogation, trial or inquiry and when the purpose of such circular is served by interrogating the person, thereafter, such circular is non-est in the eye of law. Even in this case, the petitioner was subjected to enquiry at length by the fourth respondent and therefore, keeping the look out notice in force is impermissible. In the light of the above, the writ petition is allowed. No costs. The respondents are directed not to prevent the petitioner from proceeding to London to continue her studies and the Look Out Circular issued by the second respondent need not be enforced against the petitioner."

6.In view of the above, the impugned lookout circular cannot be sustained as against the petitioner since already the purpose of issuance of the lookout circular has been met and now the petitioner is facing the trial. Therefore, the lookout circular with regard to the petitioner's Passport No.T2498573 in Crime No.14 of 2021 is set aside. Accordingly, the Writ Petition is allowed. However, the second respondent is at liberty to issue a fresh lookout circular as against the petitioner, if he fails to appear before the trial Court. There shall be no order as to costs.

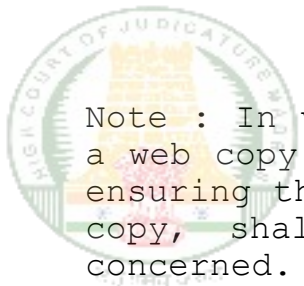
Sd/-

Assistant Registrar (A.D II)

// True Copy //

29/04/2022

Sub Assistant Registrar(CS)



Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

WEB COPY

- To
- 1.The Superintendent of Police,
Kanyakumari District,
Nagercoil.
 - 2.The Inspector of Police,
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 - 4.The Secretary,
Ministry of Home Affairs,
Government of India,
South Block,
New Delhi - 110 001.
 - 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.S.SURESH KUMAR, Advocate (SR-22726[F] dated 29/04/2022)

Order made in
W.P (MD)No.3969 of 2022
28.04.2022

RS (29.04.2022) 4P-7C