



W.P(MD)No.2828 of 2016

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.10.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P(MD)No.2828 of 2016 and
WMP(MD) No.3080 of 2016

Chenthil Arasu

... Petitioner

Vs

**1.The Secretary,
Ministry of External Affairs,
23D, Janpath Bhavan,
New Delhi-11.**

**2.The Secretary,,
Ministry of External Affairs,
45/20, College Road,
Thousand Light West, Chennai-6.**

**3.Australian Consulate General,
Australian High Commission,
No.49, 50l, 9th Floor,
Express Chambers,
Express Avenue Estate,
Whites Road, Royapettai,
Chennai-600 014.**

**4.The Inspector of Police,,
City Crime Branch, Trichy.**

...Respondents

(R4 is suo motu impleaded Vide Court Order Dated 12.06.2023 in WP(MD). 2828/2016 by BPJ).



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents to consider and pass orders on the representation of the petitioner dated 29.12.2015 in order to get the Honey Kallammakal Jose date of Birth 08.05.1979 Passport Number : E1781328 for the enquiry in connection with Crime No.20 of 2015 on the file of City Crime Branch, Trichy and also in requirement of connected documents as stated in the representation.

For Petitioner	: Mr.V.Illanchezian
For R1 & R2	: Mr.Rajaraman
For R4	: Mr.B.Thanga Aravindh Government Advocate

ORDER

The petitioner by submitting a representation to the third respondent/Australian High Commission at Royapet, for deporting one Honey Kallammakal Jose, the wife of the petitioner, in connection with a case in Crime No.20 of 2015 has filed this writ petition for a Mandamus, directing the respondents to consider his representation dated 29.12.2015.



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2.The case of the petitioner is that he is a permanent resident of No.6/21, Akila Lands, Ganapathy Nagar, Mampalasalai, Trichy and he has lodged a complaint as against his wife Honey Kallammakal Jose and five others before the Inspector of Police, City Crime Branch, Trichy in the year 2015 and the same was registered as Crime No.20 of 2015 on 27.09.2015 for the offences punishable under Sections 294(b), 420, 464, 465, 474, 476, 497, 506(i) r/w 109 IPC. The first accused is the wife of the petitioner and the other accused are the petitioner's in laws. The case of the petitioner in the complaint is that the first accused/the wife of the petitioner has cheated 70 lakhs from the petitioner with the help of the sixth accused one Vishnuprasath. According to the petitioner, the first accused stayed in Australia unlawfully. Therefore, the case in Crime No.20 of 2015 could not be proceeded. Hence, the petitioner has sought for a Mandamus, directing the respondents to consider the representation of the petitioner for deportation of the main accused, namely, Honey Kalammakal Jose from Australia.



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3. On 12.06.2023, this Court has *suo motu* impleaded the Inspector of Police, Crime Branch, Trichy as the fourth respondent in this writ petition in order to ascertain the stage of the investigation in Crime No.20 of 2015.

4. The learned Government Advocate appearing for the fourth respondent submits that the case in crime No.20 of 2015 was referred as "mistake of fact" on 23.12.2018. However, RCS Notice could not be served on the petitioner that he is not available in the address mentioned in this writ petition. The Sub Inspector of Police concerned is present before this Court and stated that this a dispute with regard to the love affair of the petitioner with the first accused. The petitioner and his wife/the first accused went to Australia, where, the first accused married another person and therefore, the petitioner has lodged a complaint and after investigation it was closed as "mistake of fact". The Inspector of Police, who is present before this Court has also stated that service of RCS Notice on the



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petitioner's father is also not fructified that his father refused to receive the notice and also refused to inform the address of the petitioner.

5.The learned counsel for the petitioner claims that he is not in a position to get instructions from the petitioner.

6.The learned counsel appearing for the respondents 1 & 2 submits that the petitioner has submitted a representation to the Australian Embassy and filed this writ petition for a Mandamus for deporting one Honey Kallammakal Jose, the wife of the petitioner by considering his representation dated 29.12.2015. Therefore, this writ petition is not maintainable as it is filed as against the Australian Embassy.

7.It is also reported that a quash petition has been filed by the sixth accused, namely, Vishnuprasath before this Court to quash the case in Crime No.20 of 2015 as against him and this Court



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by order dated 12.09.2018 in CrI.OP(MD) No.1867 of 2016 has quashed the First Information Report as against the sixth accused.

8.This Court considered the rival submissions made.

9.The petitioner and his wife one Honey Kallammakal Jose went to Australia either to pursue some studies or for employment. In Australia, the wife of the petitioner married another person. The petitioner has lodged a complaint that his wife cheated Rs.70 lakhs from him and the same was registered as Crime No.20 of 2015 on 27.09.2015. The Inspector of Police, City Crime Branch, Trichy has conducted an investigation. The petitioner has not placed any materials to prove that the first accused/the wife of the petitioner has cheated him. After completion of investigation, the police have referred the complaint as "mistake of fact."

10.By filing this writ petition, the petitioner has made the entire missionaries to work for his private issue with his wife.



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After lodging a complaint and after filing of this writ petition, the petitioner has not prosecuted the same. He has not even received the RCS Notice so far. Considering the conduct of this petitioner, this writ petition is dismissed with a cost of Rs.25,000/- and the cost has to be paid by the petitioner to the "Kalaighnar Centenary Library, Madurai". Consequently, connected Miscellaneous Petition is closed.

03.10.2023

NCC: Yes/No
Index: Yes/No
Internet: Yes
vrn



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Chennai-600 014.
- 4.The Inspector of Police,
City Crime Branch, Trichy.
- 5.The Registrar (Judicial),
Madurai Bench of Madras High Court,
Madurai.
- 6.Kalaignar Centenary Library,
Natham Road,
Race Course Colony,
Ramaond Reserve Line,
Naganakulam,
Madurai -625 002.



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B.PUGALENDHI, J.

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