



W.P(MD)No.27040 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:09.11.2023

CORAM :

THE HONOURABLE MR.JUSTICE G.ILANGO VAN

W.P(MD)No.27040 of 2023

and

W.M.P.(MD).No.23216 of 2023

A.Chitra Prasanna

... Petitioner

Vs.

1.The Superintendent of Police,
Ramanathapuram District.

2.The Deputy Director (Immigration),
Bureau of Immigration,
Ministry of Home Affairs,
Government of India,
East Block-8,
Level-4, Sector-1,
R.K.Puram,
New Delhi-110066.

3.The Inspector of Police,
All Women Police Station,
Paramakudi,
Ramanathapuram District.
(Crime No.21 of 2021)

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order dated 04.11.2023 in



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Crl.M.P.No.12309 of 2023 in C.C.No.347 of 2023 on the file of the learned Judicial Magistrate, Paramakudi and quash the same as illegal and consequently directing the first and third respondents police to withdraw the look out circular as against the petitioner for securing his job in Finland and from preventing him for travelling abroad and detaining and arresting him in any immigration (entry or exit) point in India and interfering with his freedom of movement without or without India.

For Petitioner : Mr.Benazir Begum

For Respondents : Mr.M.Sakthi Kumar
Government Advocate (Crl. Side)

ORDER

This writ petition is filed to quash the impugned order dated 04.11.2023 in Crl.M.P.No.12309 of 2023 in C.C.No.347 of 2023 on the file of the learned Judicial Magistrate, Paramakudi and consequently to direct the respondents 1 and 3 to withdraw the look out circular as against the petitioner for securing job in Finland and from preventing the petitioner for travelling abroad and detaining and arresting the petitioner in any immigration (entry or exit) point in India.



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2.The petitioner is facing charges under Sections 498 (A) and 294(b) of IPC and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act, 2002 and Section 4 of Dowry Prohibition Act, 1961. In the trial process, totally there are four accused. Among four accused, this petitioner is the second accused, shown as absconding. He moved anticipatory bail application before this Court in CrI.O.P(MD).No.17275 of 2023. That was also considered by this Court and granted anticipatory bail to the petitioner with condition. The above said condition was also complied by the petitioner on 26.10.2023.

3.Pending the trial process, look out notice was issued against the petitioner. That was also challenged before this Court for filing writ petition in W.P.(MD).No.25416 of 2023. That was also considered and directed the petitioner to move application before the concerned Court seeking permission to visit abroad on his job nature. In pursuance of the above said order, the petitioner approached the trial Court by filing CrI.M.P.No.12309 of 2023 in C.C.No.347 of 2023 that was heard by the trial Court noting that the trial commenced, if the petitioner is permitted to go abroad, it will hamper the trial process, the petitioner may not return to India, on that ground, the trial Court did not incline to allow the



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petition. The petitioner also filed quash petition in CrI.O.P.(MD).No. 18951 of 2023. It is also seen that the petitioner filed a miscellaneous petition in CrI.M.P.(MD).No.14972 of 2023 seeking dispensing his personal appearance before the trial Court. That was also considered by this Court with some conditions, he was ordered to file an undertaking affidavit before the trial by affixing his recent photograph undertaking that he will appear before the trial Court as and when required. But the above said order copy is not made ready till today, so he could not comply with the order as on today.

4.The learned counsel appearing for the petitioner would submit that the said order will also be complied with by the petitioner in due course. The petitioner is also present in person before this Court and stated that in spite of the best attempt to resolve the issue, the defacto complainant did not come forward to make settle the issue. They got child of 11 years old under the custody of the mother. Even now, he is ready to take the family but only the wife is not responding properly. The matter was already referred to mediation, while hearing the petition in CrI.O.P.(MD)No.17275 of 2023 and the mediation process is stated to be pending. But the defacto complainant is not responding to mediation process.



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5. In the light of the above said situation, right of the petitioner to visit abroad on his job basis cannot be curtailed totally. His presence before the trial Court may be ensured by imposing certain condition, since right to process abroad is recognized in ***Maneka Gandhi Vs. Union of India (UOI) and others*** reported in ***MANU/SC/0133/1978: (1978) 1 SCC 248.***

6. On that ground, the order dated 04.11.2023, in Crl.M.P.No.12309 of 2023 in C.C.No.347 of 2023, passed by the trial Court is set aside and the petitioner is permitted to go abroad on his job nature and must ensure that he will be represented by an Advocate during the trial process. On that ground the petitioner should desist from cross examining the witness in his absence. Apart from that, the petitioner is directed to share his mobile phone number and address details with the respondent police and must keep in touch with them once 15 days through phone call. The petitioner is directed to be present before the trial Court at the time of questioning and pronouncing judgment. If any one of the conditions is violated, steps may be taken to secure his presence by the trial Court. The petitioner has also filed undertaking affidavit before this Court. Let the



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above said undertaking affidavit be produced before the Registry in a proper manner. The petitioner is permitted to visit abroad as noted above and he must return to India at the time of Section 313 Cr.P.C., questioning. The supporting affidavit also filed by two persons to ensure compliance of the conditions.

7. With the above said directions, this Writ Petition stands allowed. No costs. Consequently, the connected writ miscellaneous petition is closed.

09.11.2023

NCC : Yes/No
Index : Yes/No
Internet : Yes/ No
VSG

Note: Issue Order Copy on 09.11.2023.



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To

- 1.The Superintendent of Police,
Ramanathapuram District.
- 2.The Deputy Director (Immigration),
Bureau of Immigration,
Ministry of Home Affairs,
Government of India,
East Block-8,
Level-4, Sector-1,
R.K.Puram,
New Delhi-110066.
- 3.The Inspector of Police,
All Women Police Station,
Paramakudi,
Ramanathapuram District.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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G.ILANGOVA, J

VSG

Order made in
W.P(MD)No.27040 of 2023

Dated :09.11.2023