



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 18th OCTOBER, 2023

IN THE MATTER OF:

+ **W.P.(C) 9489/2023 & CM APPLs. 38040/2023, 44318/2023**

SUSHIL KUMAR SEHGAL

..... Petitioner

Through: Mr. Pritish Sabharwal and Ms. Shweta Singh, Advocates with Petitioner in person.

versus

UNION OF INDIA & ORS.

..... Respondents

Through: Mr. Santosh Kumar Tripathi, Standing Counsel (Civil), GNCTD with Mr. Arun Panwar and Ms. Prashansa Sharma, Advocates for GNCTD.
SI Arvind Kumar, PS Kashmiri Gate.

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

JUDGMENT

1. The Petitioner has approached this Court for quashing of the Lookout Circular (LOC), bearing No. 2022411155, issued against him in case FIR No.324/2019.
2. Material on record discloses that FIR No.324/2019 was registered against the Petitioner on 15.11.2019 at Police Station Kashmere Gate for offences under Section 420 IPC on the ground that the Petitioner defaulted on the car loans taken by him. It is stated that the Petitioner took a car loan for Rs.13,00,000/- from State Bank of India, Kashmere Gate for purchasing a Renault Duster. It is stated that the said loan was sanctioned in June 2013 and the Petitioner bought the Renault Duster car bearing Registration



No.DL8CZ4501. It is further stated that the Petitioner approached the Bank again for another car loan of Rs.11,90,000/- for purchasing a Verna CRDI car. It is stated that the said loan was sanctioned on 12.06.2013 and the Petitioner bought the Verna CRDI car bearing No.DL2CAR3354. It is stated that the payment of instalments became irregular and when the Bank officials tried to contact the Petitioner, he did not respond and when they visited the address provided by the Petitioner, it was found that the Petitioner had already left. It is pertinent to mention that the Petitioner is working in Dubai and keeps coming to India. It is stated that a notice under Section 41A Cr.P.C was attempted to be served on the Petitioner but since the Petitioner had already left from the address provided, the said notice could not be served on the Petitioner. It is stated that a Non-Bailable Warrant (NBW) was issued against the Petitioner but the same could not be executed and thereafter process under Section 82 of the Cr.P.C was issued and the Petitioner was declared as a Proclaimed Person by the learned Metropolitan Magistrate *vide* Order dated 30.01.2023. On the basis of said proceedings a Lookout Circular (LOC), bearing No. 2022411155, was issued against the Petitioner. Material on record further discloses that a Criminal Revision Petition was filed against the Order dated 30.01.2023, passed by the learned Metropolitan Magistrate. It is stated that *vide* Order dated 29.05.2023, passed by the learned Additional Session Judge, the Order dated 30.01.2023 was stayed. However, since the Petitioner did not file the requisite process fee, the interim stay granted to the Petitioner *vide* Order dated 29.05.2023, was vacated *vide* Order dated 24.07.2023. It is stated that the Order dated 04.07.2023, vacating the stay, was challenged by the Petitioner before this Court by filing CRL.M.C. 4540/2023 which was disposed of by this Court with a direction to the learned Additional Session



Judge to decide the revision petition filed by the Petitioner and in the meantime it was directed that no coercive action be taken against the Petitioner.

3. Material on record discloses that the Order declaring the Petitioner as a Proclaimed Person has been set aside. The short question which, therefore, arises is that since the Order has been set aside and the Petitioner is no longer a Proclaimed Person, should the LOC against the Petitioner continue or not.

4. It is stated by the learned Counsel for the Petitioner that since the Order declaring the Petitioner as Proclaimed Person no longer exists, the LOC against the Petitioner should be set aside. He states that the purpose for which the LOC was opened, i.e. that the Petitioner was not appearing and was not co-operating with the investigation, no longer survives. He further assures this Court that the Petitioner will co-operate with the investigation and would be present in all hearings.

5. *Per contra*, learned Counsel for the State contends that the Petitioner has been declared as Proclaimed Person and, therefore, no fault can be found on the part of the authorities for opening the LOC against the Petitioner.

6. It is well settled that LOC is opened against a person who is accused of a cognizable offence under the Indian Penal Code to ensure his/her presence before the investigating authorities and before the Court. Since the Petitioner was not appearing before the Investigating authorities or before the Courts, he was declared as a Proclaimed Person. This Court cannot find fault with the Respondents for opening the LOC against the Petitioner. However, in the present case, the facts point out that the Petitioner has appeared before the Court and the Order declaring the Petitioner as a Proclaimed Person no longer exists. This Court is of the



opinion that for non-payment of loans in respect of two cars, i.e. a Renault Duster car bearing Registration No.DL8CZ4501 and a Verna CRDI car bearing Registration No.DL2CAR3354, the fundamental rights of the Petitioner cannot be taken away and, therefore, this Court, in the facts and circumstances of this case, is inclined to quash the LOC issued against the Petitioner subject to the following conditions:

- a. that the Petitioner shall be present in every date of hearing whenever he is called by the investigating authorities;
- b. that the Petitioner shall deposit a security of Rs.5,00,000/- with the Registrar General of this Court;
- c. that the Petitioner shall not dispose off his Renault Duster car bearing Registration No.DL8CZ4501 and Verna CRDI car bearing Registration No.DL2CAR3354 during the pendency of the proceedings.

7. In case the Petitioner does not co-operate with the investigation or does not appear before the Courts, it is always open for the Respondents to open another LOC against the Petitioner.

8. The passports of the Petitioner which has been deposited with the Registrar General of this Court be released.

9. With these observations, the Writ Petition is disposed of. Pending applications, if any, also stand disposed of.

SUBRAMONIUM PRASAD, J

OCTOBER 18, 2023

Rahul