

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION***

CRIMINAL WRIT PETITION NO. 2936 OF 2023

1. Feroz Lakdawala
 2. Noorie Lakdawala
- Petitioners
- Versus
1. Union Of India
 2. Bureau of Immigration
 3. Directorate of Enforcement
 4. State of Maharashtra
- Respondents

Mr. Pratik Karande a/w Mr. Aditya Talpade, Ms. Namasvi Bhanushali i/b Mr. Aditya Talpade, for the Petitioners.

Mr. D. A. Dube a/w Mr. Upendra Lokegaonkar, Mr. Sachidanand Singh, for the Respondent Nos.1 and 2.

Mr. Shreeram Shirsat, Special P.P. a/w Ms. Tanvi Mate, Mr. Nishad Mokashi, Ms. Karishma Rajesh, for the Respondent No.3 – ED.

Mr. V. B. Konde-Deshmukh, Addl.P.P. for the Respondent No.4 – State.

***CORAM : REVATI MOHITE DERE &
MANJUSHA DESHPANDE, JJ.***

DATE : 22nd APRIL 2024

ORAL JUDGMENT (PER REVATI MOHITE DERE, J.)

1. Heard learned Counsel for the parties.

2. Rule. Rule is made returnable forthwith, with the consent of the parties and the writ petition is taken up for final disposal. All learned Counsel appearing for the respective respondents waive notice on behalf of the respective respondents.

3. By this petition, preferred by the petitioners, under Article 226 of the Constitution of India and under Section 482 of the Code of Criminal Procedure (“Cr.P.C.”), the petitioners seek quashing and setting aside of the Look Out Circulars (“LOCs”) i.e. LOC Nos. 1949141 and 1949142, respectively issued against the petitioners, at the behest of the respondent No.3 – ED.

4. The grievance of the learned Counsel for the petitioners in the aforesaid petition is, that despite the petitioners not having been named in the ECIR/complaint, there are LOCs issued against the petitioners. It is submitted that the petitioners have travelled on several occasions, pursuant to several Orders passed by this Court, and that the petitioners have complied with the terms and conditions, stipulated in the said Orders.

5. Mr. Karande, learned Counsel for the petitioners submits that the right to travel is a fundamental right, under Article 21 of the Constitution of India and that the same cannot be curtailed by keeping LOCs pending indefinitely. He further submits that the petitioners were last summoned in the said case in 2021, and thereafter have not been summoned even once by the respondent No.3 – ED.

6. Mr. Shirsat, learned Special P.P. appearing for the respondent No.3 – ED opposed the petition. However, Mr. Shirsat does not dispute the fact, that the petitioners have not been named as accused, nor are they witnesses in the ECIR/complaint, lodged by the respondent No.3 – ED. Mr. Shirsat also does not dispute the fact, that the petitioners have complied with the terms and conditions stipulated in the Orders, allowing the petitioners to travel overseas, for a limited period. Mr. Shirsat also does not dispute the fact, that the petitioners have co-operated with the investigation.

7. Perused the papers. The respondent No.3 – ED registered an ECIR as against the petitioners' father, for various offences and

after investigation have filed a complaint against him. Admittedly, the petitioners have not been named in the ECIR/the complaint as accused, nor have they been named in the complaint as witnesses. Till date, the respondent No.3 – ED has not found the petitioner's involvement, in the offence.

8. On 22nd January 2024, when the aforesaid writ petition came before us, we, in para No.2 of the said Order observed as under :

*“2. Mr. Shirsat, learned Special Public Prosecutor for the respondent No.3 does not dispute the fact that as of today, the petitioners have not been named as accused nor are they witnesses in the said case. Mr. Shirsat also does not dispute the fact, that the first complaint was filed by the respondent No.3 in the Court of Competent jurisdiction on 23rd July 2021. The only contention of Mr. Shirsat is that further investigation is in progress and that the same will conclude within 3 months. He states that as of today, the respondent No.3 is unable to make a statement, with respect to the complicity of the petitioners. **He, however,***

fairly states that in the event within 3 months from today, no charge-sheet is filed against the petitioners, the respondent No.3 will not oppose the petitioners application seeking cancellation of the LOC issued, qua them.” (emphasis supplied)

9. Thus, even after grant of three months time to the respondent No.3 – ED, no complaint has been filed against the petitioners. It is pertinent to note that this Court had permitted the petitioners to travel on several occasions overseas, pending the aforesaid writ petition, and during the said period, suspended the LOCs, issued against the petitioners. It is not in dispute that the petitioners have complied with the terms and conditions stipulated therein.

10. As noted above, the ECIR is of 2019, and till date the complicity of the petitioners is not seen in the offence. It appears that LOCs which were issued in the year 2019, have been renewed at the behest of respondent No.3 – ED periodically till February 2023. Nothing has been shown by the learned Special P.P., that post February

2023, the LOCs have been renewed, as mandated by the Consolidated Guidelines, issued by the MHA.

11. Considering what is observed hereinabove, the petition is allowed and the LOCs issued against the petitioners, at the behest of the respondent No. 3 – ED, are quashed and set aside.

12. Needless to state that, it is always open for the respondent No.3 – ED to issue a LOC as against the petitioners, if the occasion so arises in future.

13. Rule is made absolute on the aforesaid terms. Accordingly, the petition stands disposed of.

14. All concerned to act on the authenticated copy of this Order.

MANJUSHA DESHPANDE, J.

REVATI MOHITE DERE, J.