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CrI.O.P.No.1460 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.02.2024

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

CrI.O.P.No.1460 of 2024

Meenakshi

D/o.Santhanamm

... Petitioner

Vs.

1.The Deputy Commissioner of Police,
Avadi, Chennai.

2.The State represented by
Inspector of Police,
W-30 AWPS - Poonamallee Police Station,
Chennai.

... Respondents

Prayer: Criminal Original Petition filed under Section 482 Cr.P.C. praying to direct the first respondent to withdraw the look-out circular issued against the petitioner in Crime No.21 of 2019 on the file of second respondent.

For Petitioner : Mr.M.Soundar Vijay Arul Ram

For Respondents : Mr.A.Gopinath

Government Advocate [CrI.side]



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ORDER

This petition has been filed for a direction to the first respondent to withdraw the look out circular issued against the petitioner in Crime No.21 of 2019.

2. The case of the prosecution is that the petitioner got acquainted with the *de facto* complainant and had informed the *de facto* complainant that both her parents died in an accident and that she was willing to marry him. Believing the petitioner, the *de facto* complainant also arranged the marriage in a temple on 10.03.2019. Jewellery worth Rs.89,270/- was also purchased and handed over to the petitioner. That apart, the family jewelleries were also handed over to the petitioner. After the marriage, the *de facto* complainant also rented a place and paid an advance amount of Rs.75,000/-. He also handed over money to the petitioner to purchase house hold articles.

3. To the shock and surprise of the *de facto* complainant, he found that he has been cheated by the petitioner since she was already married and was having a family in Canada. Based on the complaint given by the



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de facto complainant, a First Information Report came to be registered in Crime No.21 of 2019. During the pendency of the investigation, the petitioner absconded. Ultimately, an absconding charge sheet came to be filed before the Judicial Magistrate I, Poonamallee and the same was taken on file in C.C.No.7 of 2021. The petitioner was residing in Canada and she had come to India to meet her parents. At that point of time, based on the look out circular issued by the respondent, the petitioner was detained in the airport and she was arrested and remanded to judicial custody on 13.09.2023. Later, she was enlarged on bail.

4. The case is now at the stage of examination of witnesses. At this stage, the petitioner has filed the present petition seeking permission to return to Canada in order to renew her PR card. That apart, the petitioner is also pregnant and she wants to deliver the baby and thereafter, return back to India. Therefore, the petitioner has sought for a direction to the first respondent to withdraw the look out circular issued against the petitioner.

5. Heard Mr.M.Soundar Vijay Arul Ram, learned counsel for petitioner and Mr.A.Gopinath, learned Government Advocate [Crl.side]



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for respondents.

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6. When the matter came up for hearing on 31.01.2024, this Court directed the petitioner to file an affidavit of undertaking. Accordingly, an affidavit has been filed and the relevant portions are extracted hereunder:

"4. I state that I am permanent resident of Canada holding permanent card in PR card I.D No.9304-1906 and residing at No.5-66, Wayne Avenue, Oshawa, Ontario, L1G 3P9 for the past 4 years. I have been working as Employer Liaison at Acces Employment at No.2100, Ellesmere Road #250, Scarborough, Ontario M1H 3B7, Canada for the past two years.

5. I state that I am 32 weeks pregnant now and before coming to India pregnancy health checkups were done at Oshawa Clinic, No.117, King Street East, Oshawa, Ontario L1H 1B9, Canada and delivery due date falls on 20.03.2024, I will also be getting admitted in the very same facility as described above for delivery.

6. I state that my permanent resident card due renewal on 7th May 2024. I state that while returning back to Canada a valid PR card is mandatory. It becomes my responsibility to carry a valid PR card while returning to Canada from travelling outside. The said PR card has to be renewed in Canada only and it is necessary for me to travel to Canada in order to renew my Permanent Resident card.

7. I state that I am 32 weeks pregnant now and as per the policy of the airlines I will not be permitted to travel in the Aircraft after 36 weeks. It is essential for me to travel immediately before reaching 36 weeks of pregnancy in order to renew my Permanent Resident card. If the permanent card issued by the Canadian government expires, the renewal process becomes very complex and tedious and it will also jeopardize my life because my employment is based on the permanent residency and my livelihood is derived out such employment.



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8. I state that while I am staying at Canada my husband Ravi Prasana will be taking care of me and he is also employed as Manager in Stags Head, No.22, Bond Street East, Oshawa, Ontario L1G 1A1, Canada. My Canadian Mobile Number is +12899391146 and my email id is meenakshi.raviprasana@gmail.com. My husband Ravi Prasana Canadian Mobile Number is +12896002473 and his email id is anusuyaaravi@gmail.com.

9. I further state that after completing my permanent resident card renewal and after undergoing my delivery I undertake to return back to India within a period of 6 months. My parents are permanently residing at Plot No.20-G, Anand Flats, Venkatachalapathy Street, Sembakkam, Chennai - 600073. I state that I have been diligently attending trial court on all hearing dates and I hereby swear to complete the trial expeditiously on my return."

7. Learned Government Advocate [CrL.side] appearing on behalf of the respondent police vehemently opposed the request made by the petitioner to withdraw the look out circular. Learned Government Advocate [CrL.side] submitted that the petitioner is a permanent resident of Canada and if the petitioner is permitted to move out of the country, she will abscond and she will never return to India. Learned Government Advocate [CrL.side] further submitted that some time frame can be fixed for completion of the proceedings.

8. Learned counsel for petitioner submitted that apart from the



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petitioner, her parents have also been arrayed as A2 and A3 and they are residents here. That apart, when the petitioner was enlarged on bail, the relatives have given sureties to the petitioner. Apart from that, an undertaking affidavit has also been filed before this Court and the petitioner is willing to abide by any conditions imposed by this Court.

9. This Court has carefully considered the submissions made on either side and the materials available on record. The petitioner wants to renew her permanent resident card and hence, wants to travel to Canada to undertake this process. That apart, the petitioner is now 32 weeks pregnant and she will not be permitted to travel after 36 weeks. Therefore, according to the petitioner, if the permanent resident card expires, that will seriously jeopardize the employment of the petitioner at Canada.

10. The petitioner has undertaken that she will return to India after renewing the permanent resident card and after delivering the child after six months. That apart, the parents of the petitioner are also permanent residents in Chennai. The trial is yet to commence in this case.



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11. The trial in C.C.No.7 of 2021 shall go on and the petitioner shall be represented through a counsel, who will cross-examine the witnesses on behalf of the petitioner on the same day they are examined in chief. The petitioner will not question the identity of any witness. The petitioner will be present before the Court at the time of questioning u/s.313 Cr.P.C. and at the time of final judgment. The petitioner shall also deposit a sum of Rs.2,50,000/- [Rupees Two Lakhs and Fifty Thousand only] in C.C.No.7 of 2021 on the file of Judicial Magistrate I, Poonamallee. The absence of the petitioner will not hamper the progress of the case.

12. The petitioner shall return to India as undertaken before this Court within a period of six months (on or before 05.08.2024). The respondent police is directed to keep the look out circular in abeyance for a period of six (6) months in order to enable the petitioner to leave to Canada and return back to India.

13. This Criminal Original Petition is disposed of with the above



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direction.

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N.ANAND VENKATESH, J.

gm

Post this case under the caption 'for reporting compliance' on
05.08.2024.

12.02.2024

Note: Issue order copy by 14.02.2024

Speaking Order/Non-speaking Order

Index : Yes/No

Neutral citation: Yes/No

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To

- 1.The Judicial Magistrate I,
Poonamallee.
- 2.The Deputy Commissioner of Police,
Avadi, Chennai.
- 3.The Inspector of Police,
W-30 AWPS - Poonamallee Police Station,
Chennai.
- 4.The Public Prosecutor,
High Court, Madras.

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