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W.P.No.14423 of 2024 and
Cont.P.No.468 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.07.2024

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.No.14423 of 2024
and
W.M.P.No.15694 of 2024
and
Cont.P.No.468 of 2024

W.P.No.14423 of 2024:

1.P.M.Mohamed Faisal

2.P.M.Mohamed Fahad

.. Petitioners

Vs.

1.The Superintendent of Police,
O/o. Superintendent of Police,
Cuddalore.

2.The Inspector of Police,
Kattumannarkoil Police Station,
Cuddalore.

3.The Chief Immigration Officer,
26, Shastri Bhavan Annexe,
Haddows Road, Chennai – 600 034.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India
to issue a Writ of Mandamus directing the respondents to withdraw the



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LOC issued against the petitioners in connection with Cr.No.18/2019 pending before the 2nd respondent and in C.C.No.108 of 2019 on the file of the District Munsif cum and Judicial Magistrate, Kattumannarkoil, by considering the petitioners representation dated 24.04.2024 within the time frame fixed by this Court.

For petitioners : Mr.I.Abdul Basith
For RR 1 & 2 : Mr.S.Balaji
Government Advocate
For R3 : Mr.K.Gangadaran
CGC

Cont.P.No.468 of 2024:

M.Noorullah .. Petitioner

Vs.

Elumalai,
Station House Office,
Kattumannarkoil Police Station,
Kattumannarkoil,
Cuddalore District. .. Respondent

Prayer: Contempt Petition filed under section 11 of the Contempt of Courts Act, 1971, to punish the respondent for having committed contempt by violation of the order in CrI.O.P.No.19689 of 2023 dated 29.08.2023.



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For petitioner : Mr.B.Ramprabu
For Respondent : Mr.S.Balaji
Government Advocate

COMMON ORDER

The Contempt Petition was filed on the ground that the directions issued by this Court in Crl.O.P.No.19689 of 2023 dated 29.08.2023 was not complied with.

2.W.P.No.14423 of 2024 has been filed for a direction to the respondents to withdraw the lookout circular issued against the petitioners.

3.The petitioner in the contempt petition filed Crl.O.P.No.19689 of 2023 for a direction to the police to take steps to issue lookout circular against the accused persons in Crime No.18 of 2019 and to secure them and make them undergo trial in C.C.No.108 of 2019 pending before the District Munsif Cum Judicial Magistrate, Kattumannarkoil. The Crl.O.P. was disposed of by an order dated 29.08.2023 and the relevant portions are extracted hereunder:



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“2.The learned Additional Public Prosecutor on instructions submitted that the FIR was registered in Crime No.18 of 2019 as against two named accused persons for offences under Sections 294(b), 448, 427, 323, 324, 506(ii) of IPC. Initially, anticipatory bail was granted to the accused persons and it was subsequently cancelled for A2. An absconding charge sheet was filed before the District Munsif-cum-Judicial Magistrate, Kattumannarkoil insofar as A2 is concerned. The learned Additional Public Prosecutor further submitted that the case is pending from the year 2019 for issuance of summons to A2 and there has been absolutely no progress in this case. It was further submitted that the case is now posted on 18.09.2023.

3.The learned counsel for the petitioner submitted that A2 had gone abroad and the accused persons are not appearing before the Court. The learned counsel further submitted that both the accused persons are now in India and they are aware about the pending cases and they are taking effective steps to leave India and go abroad. In view of the same, a representation was given by the petitioner for issuing Lookout Circular.

4.In the considered view of this Court, the matter has been pending from the year 2019 without any progress. The anticipatory bail that was granted in favour of A2 has also been cancelled. In view of the same, there shall be a direction to the 2nd respondent to secure A2 and produce him before the Court and the Court below shall ensure that both A1 and A2 appear before the Court during every date of hearing. If the respondent police is satisfied that the accused persons are attempting to



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move away from India, it is left open to the respondents to take effective steps by giving necessary information to the Immigration.

5.The Court below shall conduct the trial on day to day basis and the proceedings in C.C.No.108 of 2019 shall be completed, within a period of four months from the date of receipt of copy of this order.”

4.After the above order was passed by this Court, the petitioner in the contempt petition moved the contempt on the ground that the directions issued by this Court were not complied with. When the matter came up for hearing on 01.03.2024, this Court passed the following order:

“When the matter came up for hearing today, the learned Government Advocate (Crl.Side) submitted that a communication has already been sent by the Superintendent of Police, Cuddalore District to the Assistant Director of Immigration to issue lookout circular for both A1 and A2 and to detain them wherever they are traced and to hand over them to the police. A copy of the relevant communication was also placed before this Court.

2.The learned Government Advocate (Crl.Side) on instructions submitted that two other petitions have been filed by the accused persons in Crl.O.P.Nos.4179 and 4157 of 2024.



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*3.Post this contempt petition along with
Crl.O.P.Nos.4179 and 4157 of 2024 on 15.3.2024.”*

5.The accused persons filed W.P.No.14423 of 2024 for a direction to the respondents in the writ petition to withdraw the lookout circular issued against them in connection with Crime No.18 of 2019. It will be more relevant to take note of the order passed in Crl.O.P.No.4157 of 2024 filed by the writ petitioners seeking to quash the proceedings in C.C.No.108 of 2019 arising out of Crime No.18 of 2019. The order dated 23.02.2024 is extracted hereunder:

*“2.The grounds raised by the counsel for the petitioner are all factual in nature and it requires appreciation of evidence and this Court cannot decide the same in exercise of its jurisdiction under Section 482 of Criminal Procedure Code. The facts of this case and grounds raised in the quash petition do not fall within the parameters laid down by the Apex Court in **State of Haryana and others v. Bhajanlal and others [(1992) Suppl (1) SCC 335]**. It is left open to the petitioner to raise all the grounds before the Court below and the same shall be considered on its own merits and in accordance with law. This Court is not inclined to interfere with the proceedings pending before the Court below.*

3.The learned counsel for the petitioner requested this Court to dispense with the presence



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of the petitioner. Taking into consideration, the facts and circumstances of the case, the presence of the petitioner is dispensed with and he shall be represented by a counsel, who shall cross examine the witnesses on the same day, they are examined in Chief. The petitioner shall be present before the Court below at the time of questioning under Section 313 Cr.P.C and at the time of passing of the final judgement and as and when required. The petitioner shall also execute a bond u/s.88 Cr.P.C. before the Court below.

*4.Accordingly, this Criminal Original Petition is disposed of with a direction to the Court below to complete the proceedings in CC.NO.108/2019 within a period of four months from the date of receipt of a copy of this order. The trial shall be conducted on a day to day basis in accordance with the guidelines given by Hon-ble Supreme Court reported in **Vinod Kumar Vs State of Punjab [2015 (1) MLJ (Crl) 288 SC]**. If the petitioner adopts any dilatory tactics, it is open to the trial Court to insist upon the presence of the petitioner and remand him to custody as per the judgment of the Hon-ble Supreme Court in **STATE OF UTTAR PRADESH VS. SHAMBHU NATH SINGH (JT 2001 (4) SC 3191)**. Consequently, connected miscellaneous petitions are also closed."*

6.When the writ petition came up for hearing on 30.05.2024 before Hon'ble Mr.JUSTICE V.LAKSHMINARAYANAN, the learned Judge passed the following order:



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“Mr.A.Gopinath, learned Government Advocate (Crl. Side), takes notice for the respondents 1 and 2. Mr.A.Gangadharan, learned Central Government Standing Counsel, takes notice for the 3rd respondent.

2.The impugned Lookout Circular seems to have been issued pursuant to the order of this Court in Crl.O.P.No.19689 of 2023, dated 29.08.2023. Mr.I.Abdul Basith, learned counsel for the petitioner, would submit that the Hon'ble Mr. Justice N. Anand Venkatesh, who had passed the order on 29.08.2023, had dispensed with the appearance of the petitioner in Crl.O.P.No.4157 of 2024, dated 23.02.2024. Mr.A.Gopinath, learned Government Advocate (Crl. Side), would submit that, alleging disobedience of the order in Crl.O.P.No.19689 of 2023, contempt is pending in Cont.P.No.468 of 2024.

3.I feel in the fitness of things, in the light of the orders passed in W.P.No.19689 of 2023 as well as Crl.O.P.No.4157 of 2024, this writ petition should be heard by the same learned Judge. As the contempt proceedings are pending, post this writ petition along with Cont.P.No.468 of 2024, after obtaining orders from the Hon'ble the Acting Chief Justice.”

7.Pursuant to the above order, the papers were placed before the Hon'ble the Acting Chief Justice and through an administrative order dated 02.07.2024, the writ petition was tagged along with the contempt petition and it has been posted before me today.



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8.The learned counsel appearing on behalf of the writ petitioners submitted that the petitioners will come over to India within a period of two weeks and they will participate in the criminal proceedings and cooperate for the early completion of the case.

9.In the light of the specific stand taken by the writ petitioners, there shall be a direction to the respondents in W.P.No.14423 of 2024 to suspend the operation of the lookout circular issued against the writ petitioners. This will enable the writ petitioners to come back to India and to participate in the proceedings pending in C.C.No.108 of 2019 on the file of the District Munsif cum Judicial Magistrate, Kattumannarkoil. This Court had directed the case to be completed within a period of four months. The case is now at the stage of issuing copies to the accused persons under Section 207 of Cr.P.C. (under Section 230 of BNSS).

10.It is brought to the notice of this Court that presently there is no incumbent Judicial Magistrate at Kattumannarkoil and the cases are taken care by the in-charge Judge, namely the District Munsif cum



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Judicial Magistrate, Kurinjipadi. Hence, the petitioners shall appear before the District Munsif cum Judicial Magistrate, Kurinjipadi, within a period of two weeks from the date of receipt of a copy of this order. The learned Judicial Magistrate shall get the bond executed by the writ petitioners. The case shall be proceeded with thereafter in accordance with law and shall be completed within a period of three months.

11.The Writ Petition and the Contempt Petition are disposed of with the above directions. Consequently, the connected Miscellaneous Petition is closed. No costs.

26.07.2024

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Index : Yes / No
Internet : Yes / No
Neutral Citation : Yes / No

NOTE: Issue order copy on 29.07.2024.



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- 1.The Superintendent of Police,
O/o. Superintendent of Police,
Cuddalore.
- 2.The Inspector of Police,
Kattumannarkoil Police Station,
Cuddalore.
- 3.The Chief Immigration Officer,
26, Shastri Bhavan Annexe,
Haddows Road, Chennai – 600 034.
- 4.The District Munsif cum Judicial Magistrate,
Kattumannarkoil,
Cuddalore District.
- 5.The District Munsif cum Judicial Magistrate,
Kurinjpadi,
Cuddalore District.
- 6.The Public Prosecutor,
Madras High Court, Chennai.



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N.ANAND VENKATESH, J.

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