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

DECIDED ON : FEBRUARY 01, 2018

+ **W.P.(CRL) 2196/2015 & CRL.M.A.No.14470/15**

RASHMI RAIKHY & ANR Petitioners

Through : Ms.Anandini Kumari, Advocate.

versus

THE STATE OF NATIONAL CAPITAL TERRITORY DELHI
& ORS Respondents

Through : Ms.Richa Kapoor, ASC.
Mr.Prashant Mendiratta, Advocate for
R4.

**CORAM:
HON'BLE MR. JUSTICE S.P.GARG**

S.P.GARG, J. (ORAL)

1. Present writ petition under Article 226/227 of the Constitution of India read with Section 482 Cr.P.C. has been preferred by the petitioners for quashing of LOC (Look Out Circular) in FIR No.28/09 against them and also for quashing of the order dated 09.04.2015 of the learned Metropolitan Magistrate. The writ petition is contested by the respondents.

2. I have heard the learned counsel for the parties and have examined the file.



3. The respondent No.4 was married to Arun Handa (since Proclaimed Offender) on 23.11.2008 at Delhi. After her marriage, respondent No.4 went to U.K. and stayed there for some duration. Dispute arose between the parties and respondent No.4 returned to India. FIR No.28/2009 was lodged by her under Sections 406/498-A/34 IPC at Police Station Mian Wali, New Delhi on 22.10.2009. Upon completion of investigation, a charge-sheet has been filed in the court. It is not in dispute that the petitioner No.1 is the complainant's sister-in-law and is married to Tarun Raikhy. The petitioner –Kabeer Handa is complainant's brother-in-law. The other accused persons are complainant's husband, father-in-law and mother-in-law; they are proclaimed offenders and are British citizens.

4. It is also not in dispute that the petitioners were granted anticipatory bail under Section 438 Cr.P.C. on 29.04.2010 with the condition that they shall not leave India without seeking prior permission of the concerned Metropolitan Magistrate. On 07.05.2010, the petitioners were arrested and released on bail in terms of the anticipatory bail order. Record reveals that on several occasions permissions were sought by the petitioners to travel abroad and the said permissions were granted; there are no allegations of their misuse. Record further reveals that the petitioners are regularly appearing before the court concerned in the said proceedings.

5. The petitioners were charged for commission of offence under Sections 406/498-A IPC. During the course of arguments, copy of the order dated 11.12.2017 was placed on record whereby the petitioner Kabeer Handa has been discharged in the said FIR; petitioner No.1



Rashmi Raikhy has been charged only under Section 406 IPC. The next date of hearing before the trial court is 27.02.2018 to frame formal charge. Apparently, the trial court has taken long time to reach the stage of consideration of charge. During this period since 2009/2010, the petitioners have suffered a lot due to issuance of LOC against them. Even after discharge order on 11.12.2017, LOC against the petitioner No.2 has not been rescinded.

6. Learned counsel for respondent No.4 vehemently urged that LOC against petitioner No.1 cannot be quashed as she is a British citizen having British pass-port. She has already been granted permission to travel abroad after seeking court's permission. There is every possibility of the petitioner No.1 to flee the country without having prior permission; therefore, LOC opened against her should not be quashed. It was further urged that petitioner No.1 is residing with the proclaimed offenders in U.K. The petitioner No.1 has given conflicting versions about her employment in India and British.

7. At present, the petitioner No.1 is facing trial for commission of offence punishable under Section 406 IPC only. It was enquired from the learned counsel for respondent No.4 as to what was the approximate value of the articles entrusted to the petitioners which allegedly have not been returned so far. On instructions, counsel informed that total value of the dowry articles entrusted was approximately ₹80,00,000/-. Seemingly, the dowry articles (if any) were handed over to all the accused persons including the complainant's husband, in-laws and not to the petitioners alone. For the offence under Section 406 IPC, in matrimonial dispute, issuance of LOC against the petitioners till



disposal of the case cannot be justified; the offence is not heinous in nature.

8. In the case of *E.V.Perumal Samy Reddy, E.V.R.Santosh Reddy and Rajeshwari vs. State represented by the Deputy Commissioner of Police and State represented by the Inspector of Police* MANU/TN/2308/2013, Madras High Court noted various types of persons who could be included in the LOC:-

- (i) Persons with Terrorists or Militant Links,
- (ii) Belligerent Foreigners,
- (iii) Foreigners previously noticed for violations of visa conditions.
- (iv) Persons required by courts in criminal/civil cases who are absconding
- (v) Absconding Offenders wanted by Police/CBI/Customs /Central excise/ Directorate of Rev. Intelligence/other agencies

9. Apparently, the petitioners do not fall in any of the above categories. There are no allegations that petitioner No.1 ever absconded and did not participate in the criminal proceedings. The petitioner No.1 is a married lady having two children. The main allegations are against the complainant's husband, father-in-law and mother-in-law. It is urged that the petitioner No.1 was staying separate after her marriage and had no concern with the matrimonial affairs of the complainant with her in laws.

10. Issuance of LOC is a serious matter as it contains full particulars of the individual which are sent throughout the world. Peculiar facts and



circumstances of the case and due to subsequent development whereby the petitioner No.1 was charged only under Section 406 IPC, continuation of LOC against her can't be considered reasonable and justified.

11. In view of the above discussion, the concerned authorities are directed to withdraw the LOC order issued against the petitioners.

12. The writ petition stands disposed of.

13. Observations made in the order shall have no impact on the merits of the case.

FEBRUARY 01, 2018/sa

**S.P.GARG
(JUDGE)**

भारतमेव जयते