

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(SPECIAL ORIGINAL JURISDICTION)

W.P.No. 21361 of 2017

1. C.B.N Reddy,  
S/o. C. B. R. Reddy,  
No.10 (Old No.17)  
Wallace Garden 2<sup>nd</sup> Street,  
Chennai - 600 006.
2. Mr.Ravi Visvanathan,  
S/o.Mr.R.Visvanathan,  
No.5, Komal Apartments,  
18, Jagadeeswaran Street,  
T.Nagar, Chennai - 600 017
3. Mr.Mohanan Rajesh,  
S/o.G.Mohanan,  
TF-4, Corddel Apartments,  
No.29, Pycrofts Garden Road,  
Chennai - 600 006.
4. Mr.S.Bhaskararaman,  
S/o.N.Subramaniam,  
T-1, Krishnapadman,  
No.33, Trustpuram 1<sup>st</sup> Cross Street,  
Chennai - 600 024.

...Petitioners

.Vs.

1. Bureau of Immigration,  
Ministry of Home Affairs,  
Government of India,  
Rep. by its Commissioner (Immigration)  
East Block - VIII, Level - V,  
Sector - 1, R.K.Puram, New Delhi - 110 066.
2. The Deputy Inspector General/Head of Branch (HOB)  
Economic Offences Unit - IV, EO-II,  
Central Bureau of Investigation Head Office,  
4<sup>th</sup> Floor, Opp. Electronics Niketan,  
CGO Complex, Lodhi Road,  
New Delhi - 110 003
3. Foreigner Regional Registration Officer (FRRO),  
Bureau of Immigration,  
Ministry of Home Affairs,  
Government of India,  
Shastri Bhavan Annex Building,  
No.26, Haddows Road,  
Chennai - 600 006.

4. The Assistant Foreigners Regional Registration Officer,  
Bureau of Immigration,  
Chennai Airport,  
Chennai - 600 027.

.... Respondents.

**AFFIDAVIT FILED BY THE PETITIONER**

I, Mr. Mohanan Rajesh, S/o. G. Mohanan, Hindu, aged about 45 years, residing at TF-4, Corddel Apartments, No. 29, Pycrofts Garden Road, Chennai - 600 006, do hereby solemnly affirm and sincerely state as follows:-

1. I am the 3<sup>rd</sup> Petitioner herein and I am well acquainted with the facts and circumstances of the case stated hereunder. The petitioner is swearing to this affidavit on behalf of all the petitioners. The Petitioners have not filed any other Writ Petition seeking for the same relief.

2. The Petitioners are aggrieved by the LOOK OUR CIRCULAR dated 18-07-2017 issued in respect of the Petitioners by the 1st Respondent at the request of the 2nd Respondent. Even though the LOC refers to C.B.N. Reddy and others the counsel for the 1<sup>st</sup> Respondent informed the Hon'ble Court on 07.08.2017 when the court proceedings were going on that the expression "and others" refers to Mr. Ravi Visvanathan, Mr. Mohanan Rajesh and Mr. S. Bhaskararaman. Having regard to the common cause of action, common grievance and the common nature of the relief sought for the Petitioners are joining together and filing a single Writ Petition. The Petitioners are taking out a separate Petition under Rule 2B of Appendix V of the Rules to Regulate Proceedings under Article 226 of the Constitution of India.

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3. The instant Writ Petition is filed to quash the Look out Circular dated 18.07.2017 issued by the 1<sup>st</sup> Respondent in respect of the Petitioners as vitiated by malafides, arbitrary and without jurisdiction.

4. The Central Government has been pursuing a politically motivated vendetta against Mr. Karti Chidambaram's family and all persons even remotely connected with the Mr. Karti Chidambaram. The said vendetta is without any basis and is reflective of the *mala fide* intentions of the Central Government. For the past 2 1/2 years, the Central Government has pursued its vendetta against Mr. Karti Chidambaram by abusing the powers of agencies like the Income Tax Department, Enforcement Directorate and the CBI (all of which are under the control of the Central Government) and now the Ministry of Home Affairs. Many of these *mala fide* actions have been challenged in the Madras High Court, some interim order have been passed, and the said cases are presently pending adjudication. The Petitioners are friends of Mr. Karti Chidambaram and they are also victimised.

5. The filing of the FIR No. RC 2202017 E 0011 of 2017 dated 15-05-2017 registered before the Special Judge, Prevention of Corruption Act, CBI, Patiala House Court, New Delhi, followed by yet another search of the residences and offices of the Petitioners and Mr. Karti Chidambaram on 16-05-2017 and the issuance of the LOOK OUT CIRCULAR is the latest of a series of concerted actions, by the central government's agencies to damage the reputation of the Mr. Karti Chidambaram and discredit the father of the Petitioner (Mr.P.Chidambaram) who is a prominent opposition leader. The whole aim of the Central Government is to throttle the voice of Mr.P.Chidambaram who is a leading member of the opposition. The Central Government encourages unscrupulous elements to spread canards against Mr. Karti Chidambaram through the media and has made it a regular practice to routinely leak information to the press by way of anonymous leaks through the said central agencies with a view to malign the Mr. Karti Chidambaram and his father in the eyes of the public at large. Systematic official press

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statements with exaggerated versions of the actions proposed or taken are also issued from time to time by the agencies to create prejudice in the minds of the public against Mr. Karti Chidambaram .

6. The Petitioners on learning that a LOC has been issued in respect of the 3 of the Petitioners filed W.P.No.20798/2017 before this Hon'ble Court for the following prayer:

“to issue a WRIT OF DECLARATION or any other writ order or direction declaring that the "Look Out Circular" issued by the 1st Respondent in purported exercise of the powers conferred under section 10B of the Pass Port Act, 1967 in the case of the Petitioner is an arbitrary exercise of power, abuse of authority, vitiated by malafides, ultravires and without jurisdiction and consequently direct the 1st Respondent to recall the "Look Out Circular" issued by the 1st Respondent naming the Petitioner”

The above Writ Petition came up for hearing on 04.08.2017 before this Hon'ble Court. The Learned Additional Solicitor General appearing on behalf of the Respondents wanted to take instructions and sought an adjournment to 07.08.2017.

7. On 07.08.2017, the counsel for the Petitioners advanced arguments for some time, the Learned Additional Solicitor General produced the files containing the requisition given by the 2<sup>nd</sup> Respondent to the 1<sup>st</sup> Respondent for issuing LOC in respect of the Petitioners for the perusal of the Learned Judge. The Learned Additional Solicitor General on instructions, refused to furnish a copy of the LOC to the Petitioner. This Hon'ble Court directed the Ministry of Home Affairs to issue a copy of the LOC to the Petitioners.

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8. Thereafter the copy of the LOC dated 18.07.2017 was handed over by Learned Additional Solicitor General representing the Ministry of Home Affairs in respect of the Petitioners to the counsel for the Petitioners and the matter was adjourned to 10.08.2017.
9. On a perusal of the LOC, the Petitioners have been advised to file a WRIT OF CERTIORARI to quash the LOC as arbitrary, without jurisdiction and vitiated by malafide.
10. The Petitioners submit that FIR having Ref.No.RC220 2017 E0011, dated 15.05.2017 was filed by the 3<sup>rd</sup> Respondent under Section 154 of CrI.P.C.. The FIR has been filed for offences under section 120 B and 420 IPC and sections 8 and 13 of the Prevention of Corruption Act. Curiously for the offences under the Prevention of Corruption Act no public servant has been named as accused in the FIR .
11. On 18.07.2017, the 1<sup>st</sup> Respondent has issued the impugned Look Out Circular dated 18.07.2017 pursuant to a request by the 2<sup>nd</sup> Respondent for opening of LOC in respect of the Petitioner and others. The above impugned Look Out Circular was issued pursuant to a request made by the 2<sup>nd</sup> Respondent in Letter No.5766 /RC/220/2017/E0011/CBI/EOU-IV/New Delhi dated 18-07-2017.
12. The Petitioners were always responding to the notices issued by the IO, CBI, New Delhi. It is the Petitioners constitutional right to invoke the jurisdiction of the Hon'ble High Court when their fundamental rights are violated by executive-action which is without the authority of law. The Petitioners are aggrieved by the LOC issued by the 1<sup>st</sup> Respondent dated 18-07-2017 in respect of the Petitioners .

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jurisdiction of this Hon'ble Court when the copy of the LOC dated 18-07-2017 was served on the counsel for the Petitioners when the proceedings relating to the Writ Petition No.20885 of 2017 was being heard in this Hon'ble Court on 07-08-2017. Further the impugned LOOK OUT CIRCULAR was communicated by the 1<sup>st</sup> Respondent to the 3<sup>rd</sup> Respondent who has his office in Chennai. The 3<sup>rd</sup> Respondent has sent the LOOK OUT CIRCULAR to the 4<sup>th</sup> Respondent for further action. The Officer who will act on the LOC as and when the Petitioners report at the Anna International Airport, Chennai for travelling abroad is the 4<sup>th</sup> Respondent. Hence this Hon'ble Court has jurisdiction to entertain the Writ Petition.

Under these circumstances the Petitioners have no other effective alternative remedy except to approach this Hon'ble Court for reliefs under Article 226 of the Constitution of India on the following among other Grounds

#### GROUNDS

A. The Ministry of Home Affairs Foreigners Division has issued office memorandum dated 27.10.2010 on the subject relating to Issuance of Look Out circulars (LOC) in respect of Indian Citizens and Foreigners. The said office Memorandum in para 6 refers to the decision of the Delhi High Court in W.P. (Crl.) No.1315/2008 dated 11.08.2010 in the case Sumer Singh Salkan Vs. Assistant Director & others and Crl.ref.1/2008 - Court on its Own Motion Re: State Vs Gurnek Singh etc. In the said judgement the Hon'ble High Court framed the following, among other questions, question "What are the categories of cases in which the investigating agency can seek recourse of Look - Out- Circular and under what circumstances.

The Hon'ble High Court answered the above question as follows:

\*a. Recourse of LOC can be taken by investigating agency in cognizable offences under IPC or other penal laws, where the accused was deliberately evading arrest or not appearing in the

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trial court despite NBWs and other coercive measures and there was likelihood of the accused leaving the country to evade trial/arrest"

The Petitioners do not fall under any of the above categories. The petitioners are not named as accused in the FIR . The petitioners are being summoned as witnesses. The Petitioners are law abiding citizens. The Petitioners responded to the 2 notices dated 15.06.23017 and 04.07.2017 issued by the IO, CBI, New Delhi through their counsel giving just cause for not appearing on the dates fixed by the IO, CBI, New Delhi to appear before him. Hence the Petitioners cannot be categorised as persons who were not responding to notices or that they were not co-operating in the investigation. The FIR dated 15.05.2017 registered against the Petitioners and others is vitiated by malafide and suffers from innumerable infirmities and is liable to be quashed. The Petitioners craves leave to refer to the grounds raised in W.P.SR.No.69249 OF 2017 filed by the Petitioners to quash the FIR dated 15.05.2017 and the notices issued to the Petitioners to establish that the FIR and the notices are liable to be quashed. The invocation of the constitutional right to invoke the jurisdiction of this Hon'ble Court when the fundamental rights of the Petitioners are violated cannot be any stretch of imagination be constrained as non-co-operation in the investigation warranting issuance of LOC. The Petitioners have not been named as accused in the FIR. They are being called for investigation as witnesses . The LOC has been issued in the absence of circumstances warranting issuance of LOC. , Hence the LOC is without jurisdiction liable to be set aside.

B. The malice in law and fact on the part of the CBI requesting for LOC in respect of the Petitioners, in order to harass the Petitioners because they are friends of Mr.Karti P. Chidambaram is thus very apparent. LOC in respect of the Petitioners is illegal.

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C. The CBI issued the letter of request to the 1<sup>st</sup> Respondent only on 18.07.2017. The LOC is issued on the same day on 18.07.2017. It is therefore apparent that the 1<sup>st</sup> Respondent without only application of mind had issued the LOC mechanically. The power to issue LOC is a power coupled with duty to act fairly and reasonably and not arbitrarily or capriciously. The 1<sup>st</sup> Respondent has exercised the power arbitrarily on account of political pressure. In the circumstances, the LOC is vitiated by malice in law suffering from the vice of non-application of mind and liable to be set aside.

D. The CBI and MHA cannot cite past experience with certain persons who were not co-operating in the investigation for issuing LOC against the Petitioner who does not fall under any of the categories mentioned in the judgement of the Delhi High Court referred in Ground A. The Petitioners has challenged the FIR on substantial grounds and have a fair chance of success. The Petitioners have not evaded the process of law and has challenged the FIR and the notice under CrI.P.C. If the Writ Petitions are allowed, then the necessity of the Petitioners to appear before the IO, CBI, New Delhi will not arise. The FIR has been filed based on conjectures, inferences and surmises and not on the basis of truth. The reading of the FIR shows the hollowness of the allegations. The FIR cannot stand scrutiny in any court of law. The LOC based on a totally false FIR is also liable to be set aside.

E. The Respondents rely on the Office Memorandum (OM) issued by the Ministry of Home Affairs dated 27.10.2010 for tracing their source of power to issue LOC. But the Respondents failed to adhere to the guidelines issued by the Delhi High Court cited in the OM for identifying the persons who should be visited with a LOC. Right to travel abroad is a fundamental right of any citizen enshrined in articles 19 (1) (a), 19 (1) (g) and 21 of the Constitution . Such a fundamental right can be curbed only by imposing reasonable restrictions in public interest. In the case of the Petitioners LOC is an arbitrary exercise of power and unjustified and an abuse of authority.

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No reasons have been given in LOC for issuing the LOC except referring to the letter dated 18.02.2017 of the CBI regarding opening of LOC in respect of the Petitioners. The reasons are contained in the files maintained by the 1st Respondent who issued the LOC. The Petitioners have a right to know the reasons given by CBI for requesting for a LOC in respect to the Petitioners. The letter issued by the 2nd Respondent to the 1st Respondent cannot be considered a privileged document. The Petitioners have already alleged malafides against the agencies of the Central Government who are determined to harass Mr. Karthi P Chidambaram to embarrass his father Mr.P.Chidambaram. Unless the reasons given by the 2nd Respondent for requesting for a LOC in respect of the Petitioners is given to the Petitioners, principles of natural justice would be violated. Refusal to communicate the reasons adduced by the 2nd Respondent to seek LOC in respect of the Petitioners to the Petitioners is arbitrary and the inevitable inference is that the request for LOC has been made not in public interest but for extraneous considerations. The petitioners are not named as accused in the FIR. They are being summoned as witnesses. The LOC is a non speaking order. At least a post decisional hearing should have been given to the Petitioner after furnishing the reasons given by the 2nd Respondent or the 1st Respondent for issuing a LOC in respect of the Petitioners.

G. Section 82 of CrI.P.C. reads as follows:

**82. Proclamation for person absconding.**

(1) If any Court has reason to believe (whether after taking evidence or not) that any person against whom a warrant has been issued by it has absconded or is concealing himself so that such warrant cannot be executed, such Court may publish a written proclamation requiring him to appear at a specified place and at a specified time not less than thirty days from the date of publishing such proclamation.

The grounds for issuing a proclamation against a person under Section 82 of CrI.P.C. are also absent in the Petitioners' case.

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Under these circumstances it is prayed that this Hon'ble court may be pleased to issue a WRIT OF CERTIORARI or any other writ order or direction calling for records of the 1<sup>st</sup> Respondent relating to the Look Out Circular having Ref.No.1/SIC (DMC)/LOC/2017- 6851 dated 18.07.2017 issued by the 1<sup>st</sup> Respondent in respect of the Petitioners and quash the same as an abuse of authority , without jurisdiction, issued for extraneous considerations and vitiated by malafides and pass such further or other orders as this Hon'ble Court may deem fit and proper in the circumstances of the case and thus render justice.



BEFORE ME,

Solemnly affirmed at Chennai  
this the 8<sup>th</sup> day of August, 2017  
and signed his name  
in my presence:

ADVOCATE, CHENNAI

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MEMORANDUM OF WRIT PETITION  
UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA  
IN THE HIGH COURT OF JUDICATURE AT MADRAS  
(SPECIAL ORIGINAL JURISDICTION)

W.P.No.                      of 2017

1. C.B.N Reddy,  
S/o. C. B. R. Reddy,  
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Wallace Garden 2<sup>nd</sup> Street,  
Chennai - 600 006.
2. Mr.Ravi Visvanathan,  
S/o.Mr.R.Visvanathan,  
No.5, Komal Apartments,  
18, Jagadeeswaran Street,  
T.Nagar, Chennai - 600 017
3. Mr.Mohanan Rajesh,  
S/o.G.Mohanan,  
TF-4, Corddel Apartments,  
No.29, Pycrofts Garden Road,  
Chennai - 600 006.
4. Mr.S.Bhaskararaman,  
S/o.N.Subramaniam,  
T-1, Krishnapadmam,  
No.33, Trustpuram 1<sup>st</sup> Cross Street,  
Chennai - 600 024.

...Petitioners

.Vs.

1. Bureau of Immigration,  
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2. The Deputy Inspector General/Head of Branch (HOB)  
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3. Foreigner Regional Registration Officer (FRRO),  
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Ministry of Home Affairs,  
Government of India,  
Shastri Bhavan Annex Building,  
No.26, Haddows Road,  
Chennai - 600 006.

4. The Assistant Foreigners Regional Registration Officer,  
Bureau of Immigration,  
Chennai Airport,  
Chennai - 600 027.

.... Respondents.

**WRIT PETITION**

The address of the Petitioners are as stated above.

The address for services of all notices and processes on the Petitioners is that of their Counsel M/s.R.PARTHIBAN AND C.VIGNESWARAN, ADVOCATES, having Office at 4-C, Eldorado, No.112, Nungambakkam High Road, Chennai - 600 034.

The address for services of all notices and processes on the Respondents are as stated above.

For the reason stated in the accompanying affidavit, it is prayed that this Hon'ble court may be pleased to issue a WRIT OF CERTIORARI or any other writ order or direction calling for records of the 1<sup>st</sup> Respondent relating to the Look Out Circular having Ref.No.1/SIC (DMC)/LOC/2017- 6851 dated 18.07.2017 issued by the 1<sup>st</sup> Respondent in respect of the Petitioners and quash the same as an abuse of authority, without jurisdiction, issued for extraneous considerations and vitiated by malafides and pass such further or other orders as this Hon'ble Court may deem fit and proper in the circumstances of the case and thus render justice.

Dated at Chennai this the 8<sup>th</sup> day of August, 2017

COUNSEL FOR PETITIONERS



