



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 22ND DAY OF SEPTEMBER, 2025

BEFORE

THE HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

WRIT PETITION NO. 22223 OF 2025 (GM-FC)

BETWEEN:

MOHAMMED AZEEM
S/O ABDUL GHANI,
AGED 53 YEARS,
R/AT BIG HOUSE,
KILPADY, MULKI,
MANGALURU TALUK.
D.K. DISTRICT - 575 001

NOW WORKING AT THE KUWAIT
DANISH DAIRY CO.
KCSC SABHAN, INDUSTRIAL AREA
BLOCK NO 1, STREET 104,
BUILDING 157, P.O BOX 835
SAFAT13009, SABHAN, KUWAIT

...PETITIONER

(BY SRI. K RAVISHANKAR, ADVOCATE)

AND:

1. MRS. SABEEHA
W/O MOHAMAD AJEEM.,
AGED ABOUT 44 YEARS,
2. ABDUL AHAD.
S/O MOHAMAD AJEEM,
AGED 23 YEARS,



3. ABDUS SAMAD.,
S/O MOHAMAD AJEEM.,
AGED ABOUT 23 YEARS,

ALL ARE R/AT,
FLAT NO. 105,
SAS APARTMENT,
BEHIND KANKANADY MARKET,
KANKANADY,
MANGALURU TALUK,
D.K. DISTRICT - 575 001.

4. THE COMMISSIONER OF POLICE
D.K DISTRICT
MANGALURU - 575 001

...RESPONDENTS

(BY SRI. K. CHANDRANATH ARIGA, ADVOCATE FOR R1 TO R3;
SRI. NEELAKANTAPPA K, PURJAR, HCGP FOR R4)

THIS WP IS FILED UNDER ARTICLES 226 AND 227 OF
THE CONSTITUTION OF INDIA PRAYING TO-QUASH THE
IMPUGNED ORDER DATED 30.10.2024 PASSED IN CRL. MC NO.
45/2022 PASSED ON INTERIM APPLICATION PENDING ON THE
FILE OF THE PRINCIPAL JUDGE, FAMILY COURT MANGALURU
(PRODUCED VUDE ANNEXURE -A) AND ETC.,

THIS PETITION, COMING ON FOR ORDERS, THIS DAY,
ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE SMT. JUSTICE LALITHA KANNEGANTI



ORAL ORDER

Aggrieved by the order dated 30.10.2024 passed in CrI.MC.No.45/2022 by the Principal Judge, Family Court, Mangaluru whereby the Family Court had allowed the application filed by the wife and issued look out circular against the husband, the husband is before this Court.

2. Learned counsel appearing for the petitioner/husband submits that the Family Court had no jurisdiction to issue the look out circular in matrimonial disputes which is contrary to the directions issued by the Hon'ble Apex Court in the case of ***Rajesh Sharma and others Vs. State of UP and Another.***¹

It is submitted that the order of the Family Court in issuing the look out circular is contrary to Section 125(3) and Section 421 of the CrPC. It is submitted that Section 125(3) provides that in enforcement of the maintenance order Court may issue a warrant for levying the amount due in the manner provided for fines as prescribed under Section 421 of Cr.P.C. Section 421 provides that a warrant for levy of fine by attachment of sale of immovable property. In this case, the Family Court had

¹ 2017 (6) Supreme 266



already taken recourse and passed an order on 05.10.2023 to recover the amount due from respondent Nos.1 to 3 by issuing the warrant of attachment and selling the property. Proviso to Section 421 provides that no such warrant shall be executed by arrest or detention in prison of the offender. The Family Court has no power to issue the look out circular in the process of executing the order of maintenance. It is submitted that the Hon'ble Apex Court in the case of **Rajnish Vs. Neha and another**² had considered that for non-payment of maintenance, enforcement order including striking of defence will have to be passed as a last resort if the Court finds default to be willful and contumacious. It is submitted that viewed from any angle, the Family Court had no jurisdiction to issue the look out circular.

3. This matter came up before this Court on 28.07.2025, and this Court had passed the following order:

"Aggrieved by the impugned order dated 30.10.2024 in Crl.M.C.No.45/2022 passed by the Prl. Judge, Family Court, D.K., Mangaluru, whereby the court had issued a look-out notice against the

² (2021) 2 SCC 324



petitioner herein, the petitioner/husband is before this court.

Learned counsel for the petitioner submits that even if the petitioner/husband has failed to pay the arrears of maintenance, there is no such power vested with the family court to issue the look-out notice for executing the order. There is a procedure contemplated for recovery of the amount of maintenance. It is submitted that the court had exceeded its jurisdiction and passed such an order.

Petitioner/husband has not appeared before the executing court and has not paid the part of the arrears of maintenance. The family court in the process of securing his presence has passed this order. Whether the court has jurisdiction to pass such an order or not this court will go into the merits of the same at this point of time, the fact remains is he has failed to appear before the court.

Considering the submission of the learned counsel for the petitioner that the petitioner will appear before the executing court on 30.08.2025, on that day he will deposit an amount of Rs.2,00,000/-, on such condition there shall be stay of all further proceedings pursuant to the order passed in Crl.M.C.No.45/2022 dated 30.10.2024 by the Prl. Judge, Family Court, D.K., Mangaluru.



Petitioner is permitted to take out hand summons on the learned counsel for the respondent and shall file a memo to that effect by 02.09.2025. If the memo is not filed, the stay granted by this court stands vacated."

4. Thereafter, the counsel for the respondent has come on record. Petitioner has filed another IA stating that inspite of an order passed by this Court, when he was traveling, he was not permitted in view of the look out circular. This Court has passed an order on 18.09.2025. Today, the Government Pleader had placed before this Court the communication received from the Bureau of Immigration stating that as requested the deletion of LOC against the petitioner has been completed at their end.

5. The learned counsel appearing for the respondent/wife submits that when there is an order of maintenance passed by the Family Court, it is the duty of the husband to comply with the same. The petitioner conveniently was staying out of the country and had failed to comply with the order. Having no other go, the Family Court had to pass an order by issuing the look out circular and there is no illegality with the said order.



6. Having heard the learned counsels on either side, perused the material on record. This Court finds force in the argument of the learned counsel appearing for the petitioner. The Family Court has no power to issue the look out circular in the process of executing an order that is passed under Section 125 of CrPC. Maintenance orders passed under Section 125 of CrPC is a civil obligation enforced through judicial orders. If party defaults the remedy is to seek execution of the order i.e., attachment of property, warrant of arrest and civil imprisonment. Look out circulars are meant to prevent the accused/offenders from evading criminal process. The LOC cannot be issued for recovering the dues of maintenance. Further, continuing the LOC despite the order passed by the Court is illegal and amounts to contempt of Court and it also amounts to violation of rights guaranteed under article 21 of the Constitution of India. Therefore, issuing a look out circular is beyond the jurisdiction that is conferred on the Court while executing an order under Section 125 CrPC.

7. In this case, when an order is passed by this Court, suspending the said LOC, it is the duty of the requisitioning



authority to communicate the same to the concerned and to withdraw it immediately. But unfortunately, in spite of orders passed by the Court, it has become a practice that the officer who has requested for issuance of LOC is not taking any steps to close the LOC basing on the order passed by the Court. The Director-General of Police shall issue necessary instructions to all the concerned with regard to this and shall ensure that whenever an order is passed by the Court suspending an LOC that has to be communicated to the Bureau Of Immigration and the responsibility shall be fixed on the officer who has requested for opening of a LOC, otherwise, there is no sanctity to the orders of the Court. If the concerned office fails to act diligently, departmental action shall be initiated against the concerned.

8. The Registrar General shall communicate a copy of this order to all the Courts dealing with Section 125 of CrPC proceedings/execution that the look out circulars cannot be issued. The copy of this order shall also be forwarded to the Director General of Police.

Accordingly, this Court is passing the following:



ORDER

- i. The order dated 30.10.2024 passed in CrI.MC.No.45/2022 by the Principal Judge, Family Court, Mangaluru is **set aside**.
- ii. The Registrar General shall forward the copy of this order to the Director General of Police and also to all the Courts who are dealing with execution petitions arising out of the order passed under Section 125 of CrPC.
- iii. Accordingly, the writ petition is **allowed**.
- iv. All I.As pending shall stand closed.

SD/-
(LALITHA KANNEGANTI)
JUDGE

RJ
List No.: 1 SI No.: 4
CT: BHK