

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.01.2016

CORAM:

THE HON'BLE MR.JUSTICE R.SUBBIAH

Crl.O.P.No.10670 of 2015
and
M.P.No.1 of 2015

1.R.Mohammed Faizal
2.Rahmathullah Khan
3.Ms.Syed Sulthana ... Petitioners

Vs.,

1.The District Welfare Officer,
No.43, 2nd Street, Gandhi Nagar,
(Opp: Collector Office)
Sevilimedu,
Kancheepuram-631 501.
2.The Inspector of Police,
W-19, Adyar All Women Police Station,
Adyar, Chennai-600 020.
3.M.Aysha ... Respondents
(R3 impleaded as per order dated 1.12.15
made in 1.12.2015 made in MP.No.2/15)

Prayer: Petition filed under Section 482 of the Criminal Procedure Code praying to direct the 1st respondent to enquire the petitioners, who are staying abroad, by video conferencing adhering to the principles of natural justice and to conduct a fair and unbiased thorough enquiry to find out any prima facie case of dowry harassment is made out against the petitioners in Na.Ka.No.617A5 of 2015.

For Petitioners : Mr.D.Abdullah

For Respondents : Mr.C.Emalias, APP (For R1 & R2)
Mr.C.V.Kumar (For R3)

ORDER

This petition has been filed by the petitioners seeking to direct the 1st respondent to enquire the petitioners, who are staying abroad, by video conferencing adhering to the principles of natural justice and to conduct a fair and unbiased enquiry in respect of the proceedings in Na.Ka.No.617A5 of 2015.

2. In the affidavit filed in support of this petition, it has been stated by the petitioners that the 1st petitioner married the 3rd respondent-M.Ayisha, according to muslim rites and customs on 28.04.2014 at Haj House, Chennai. The petitioners performed the said marriage by spending about Rs.20 lakhs, without any demand from the family members of the 3rd respondent. The 1st petitioner is working in Qatar and he took his wife/R3 to Qatar for a period of three months from 23.09.2014 to 31.12.2014. The 3rd respondent/wife was insisting the 1st petitioner to come and live in her parents home. The 1st petitioner, who is working abroad, tried to reason out that it was not possible for him to live in her mother's house. Having failed in her attempt to make the 1st petitioner to live in her maternal home, the 3rd respondent/wife lodged a false complaint of dowry harassment, with the 2nd respondent-Police on 23.03.2015. As the work permit was about to expire, the petitioners left abroad for renewal of the same, after informing the 2nd respondent. On 05.04.2015, the 1st respondent issued a notice by ordinary post to the 1st petitioner's local residential address, calling upon the 1st petitioner to appear for an enquiry, relating to the complaint made by the 3rd respondent/wife, under the provisions of Dowry Prohibition Act. On coming to know about the same, the 1st petitioner sent an email dated 06.04.2015 seeking 25 days' time to appear before the 1st respondent as he was in Qatar and the said time was required for making travel arrangements. A copy of the said letter was also delivered in person to the 1st respondent through a relative of the 1st petitioner. But, without considering the genuine request of the 1st petitioner, the 1st respondent fixed the enquiry date as 13.04.2015 and to that effect, a notice dated 08.04.2015 was served at the resident of the petitioners on 12.04.2015, implicating the petitioners 2 & 3 as well. The 1st petitioner had again sent a request to the 1st respondent by email, informing that his travel to Chennai had been prevented, for the reason that his passport has been surrendered to Indian Embassy at Doha for re-issuing the same. The petitioners also requested the 1st respondent through their lawyer on 13.04.2015, seeking sufficient time for participating in the enquiry before the 1st respondent. However, the 1st respondent informed the counsel for the petitioners that the 1st respondent will shortly send recommendation to file FIR against the petitioners and merely asked for proof that the petitioners are living abroad. The petitioners state that on 14.04.2015, an email with the proof for residing abroad was submitted to the 1st respondent. In the said email the petitioner have also requested the 1st respondent to hold the enquiry by video conferencing and the petitioners have also agreed to bear the cost for video conferencing. Though the 1st respondent had also received the copy of the said email, the request of the petitioners was not considered by him. Hence, the petitioner has come forward with present petition before this Court.

3.Heard both sides and perused the materials available on record.

4.Earlier, this matter was adjourned on several occasions at the request of the learned Additional Public Prosecutor, for getting instruction from the 1st respondent. Today, when the matter is taken up for consideration, on instruction, the learned Additional Public Prosecutor informed this Court that the respondents police have no facilities for video conferencing; thus, he sought for dismissal of the petition.

5.Considering the facts and circumstances of the case, I am of the opinion that when there is no facility for video conferencing, in the office of the 1st respondent, this Court cannot give a direction to the 1st respondent to enquire the petitioners by videos conferencing. Moreover, I am of the opinion that only if the petitioners appear for enquiry before the 1st respondent, there will be an effective adjudication in the matter. Hence, I am not inclined to entertain this petition.

In fine, this criminal original petition is dismissed. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

ssv
To

1.The District Welfare Officer,
No.43, 2nd Street, Gandhi Nagar,
(Opp: Collector Office)
Sevilimedu,
Kancheepuram-631 501.

2.The Inspector of Police,
W-19, Adyar All Women Police Station,
Adyar, Chennai-600 020.

3.The Public Prosecutor,
High Court, Madras.

+ 1 cc to Mr.D. Abdullah, Advocate SR.5983
+ 1 cc to Mr.C. V. Kumar, Advocate Sr.5567

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VGI(CO)

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