

HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

CRIMINAL PETITION No. 5683 of 2013

ORDER:

In this petition filed under Section 482 Cr.P.C, petitioner/A1 seeks to quash the docket order dated 24.4.2013 passed by the Principal District and Sessions Judge, Chittoor.

2. The petitioner is Accused No. 1 in S.C.No. 423 of 2012 and facing charges under Section 498-A, 304-B IPC and Section 3 & 4 of Dowry Prohibition Act. Petitioner/A1 is the husband and the accused No. 2 is the mother-in-law of the deceased Smt. Divya Madhuri, who committed suicide on 6.9.2011 by hanging herself to the ceiling fan. While so, when the matter came up for defence evidence, the petitioner/A1 wanted to submit the alleged e-mail dated 8.4.2011 said to have been addressed by the deceased to him on his behalf as defence evidence. For this purpose, the petitioner/A1 had first filed Crl.M.P.No. –(CF No. 1415 of 2013) dated 24.4.2013 under Section 233 Cr.P.C., stating that the deceased was having 'g-mail' I.D and she sent a mail dated 8.4.2011 from 'softymadhu@gmail.com' to 'google' mail I.D of the petitioner/A1

'aswapurichakradhar@gmail.com' and to establish this fact the Court may be pleased to issue summons to the legal department of 'google' headed by one Gitanjali Duggal. The said petition was returned on 24.4.2013 with the following endorsement:

“The exact nature of the document, specified period of time so required by the petitioner is not mentioned in the prayer.”

The petitioner made an endorsement dated 3.5.2013 for re-presenting the petition. Though he made an endorsement on the petition, but he did not re-submit it. On the other hand, he came up with another petition under Section 233 Cr.P.C with a request that the Court may receive electronic mail sent by the deceased to the petitioner/A1 dated 8.4.2011. The said petition was returned on 24.4.2013 by the trial Court with the following two objections:

“(1) State, how this application is filed by Sri M.R. Vijay Kumar, Advocate, when he does not hold memo of appearance on behalf of the accused.

(2) State, how the enclosed document can be received, when the same is not an authenticated one.”

3. The petitioner, it appears, re-submitted the said petition on 3.5.2013 submitting his explanation that since the senior counsel went on pilgrimage, junior counsel M.R.Vijaya Kumar has filed the petition. With regard to the second objection of

the office, he submitted 'if an opportunity is given to petitioner he is prepared to exhibit the document by operating the e-mail system through Internet'. The said petition, it appears was rejected by the Office with an endorsement "on a second thought, this is not re-presented as already order was made by the Judge, closing defence evidence".

4. Now the instant Criminal Petition is filed by the petitioner questioning the docket order dated 24.4.2013. When the matter came up for hearing, learned counsel for the petitioner submitted that an opportunity may be given to the petitioner/A1 to produce the e-mail dated 8.4.2011 sent by the deceased to the petitioner/A1 as a defence evidence, which is important to establish his case.

5. Learned counsel appearing for the respondent/de-facto complainant submitted that the earlier petitions filed were rejected by the lower Court and defence evidence was also closed and therefore, the present application is not maintainable.

6. On hearing both sides, this Court is of the considered view that an opportunity should be given to the petitioner/A1 to establish his defence version.

7. Accordingly, the following order is passed:

The petitioner/A1 shall move the trial Court with an appropriate application to receive the alleged e-mail dated

8.4.2011 purportedly sent by the deceased to the petitioner/A1 through her 'google' account and the Court shall permit the petitioner/A1 to adduce the said evidence upon the petitioner/A1 proving the authenticity of the said e-mail as per law. The entire exercise shall be completed and judgment in S.C.No. 423/2012 shall be pronounced within a period of three months from the date of receipt of a copy of this order by the trial Court.

8. With the above observation, the Criminal Petition is disposed of. As a sequel thereto, miscellaneous applications pending, if any, shall stand closed.

U.DURGA PRASAD RAO, J

Date: 29.02.2016

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