

HON' BLE DR. JUSTICE B. SIVA SANKARA RAO
CRIMINAL PETITION Nos.7609 and 8249 of 2017

COMMON ORDER:

Heard learned counsel for the petitioners, who are A2 to A6 of Crime No.11 of 2014 dated 10.03.2014 on the file of C.I.D.Police Station, Hyderabad, registered for the offences punishable under Sections 498-A and 506 I.P.C. and also learned Public Prosecutor representing the State before ordering notice to respondent No.2/ de facto complainant and perused the grounds urged in the quash petition and the impugned dismissal orders of the learned XIII Additional Chief Metropolitan Magistrate, Mahila Court, Hyderabad in CrI.M.P.Nos.3493 of 2017 and 6527 of 2015 dated 12.06.2017 and 26.08.2016 respectively.

2. The impugment in CrI.P.No.8249 of 2017 is for not relaxing conditions and the impugment in CrI.P.No.7609 of 2017 is for not permitting to go abroad to attend the prenatal care of daughter of A5.

3. A perusal of the order insofar as CrI.M.P.No.3493 of 2017 dated 12.09.2017 speaks that this is a crime of the year 2013-14 and awaiting police final report what the petitioner/ A5 wants to go to U.S.A. to take care of her daughter carrying there for permission to take the passport to visit U.S.A. For that, she did not file any document and A1 earlier obtained permission to go abroad vide CrI.M.P.No.3032 of 2014 dated

15.07.2014 and he did not turn up and if A5 is also permitted to go she may not turn up, thereby, there are no reasonable grounds.

4. So far as the dismissal of the petition in CrI.M.P.No.6527 of 2015 to relax the conditions of the bail order concerned, it is observed that as the investigation is still pending as per the prosecution for documentary proof from Singapore regarding the death of the de facto complainant's daughter, wife of A1 and there is no undertaking of petitioners of non-interference, no grounds to relax the conditions.

5. Along with the CrI.P.No.7609 of 2017, now the petitioner/ A5 filed the proof regarding her daughter by name Koka Lakshmi examined by Gynecologist describes she is carrying and the other examination dated 16.08.2017 shows the assessment of 31 weeks gestation of pregnancy. Further, so far as the observation of the learned Magistrate regarding A1 obtained transit permission to go abroad in July, 2014 and did not turn up concerned, though the record shows after said permission he turn back and re-submitted passport and again CrI.M.P.No.5463 of 2015 dated 21.09.2015 permission obtained for a period of eight months till 22.05.2016 and again in CrI.M.P.No.3250 of 2016 further permission obtained from 22.05.2016 to 22.05.2017.

6. It is the submission of the learned Public Prosecutor that the order of the learned Magistrate is correct to the fact that after 22.05.2017 by the time, the order passed on 12.06.2017, A1 did not resubmit his passport even the period is expired. However surrender of passport memo filed by A1 in S.R.No.4617 of 2017 dated 09.08.2017 of the lower Court speaks that he submitted the passport back. Thus, it is a matter before the lower Court to consider whether any penalty to be imposed for his violation by not submitting in time, though submitted subsequently.

7. So far as permission of A5 herein concerned from what is referred supra, it is not a case of A5 from 2014 onwards after obtaining permission is in abscondance. Hence, that is not a ground for dismissal and though there is no proof filed before the lower Court regarding purpose of permission. Here, from the proof filed referred supra, the permission can be accorded.

8. Having regard to the above and in the result CrI.P.No.7609 of 2017 is allowed directing the lower Court to permit the petitioner/ A5 to obtain transit permission to go abroad to attend the pre and post natal care of her daughter for a period of six months from the date of according permission subject to giving of an undertaking affidavit to appear in person after the said period. In the meantime to

permit through special vakalat holder in the event of filing of any final report to undertake the summons and appear for any pre-charge enquiry even shown accusation by the accused and to execute bond with immovable property security for Rs.4,00,000/- (Rupees Four lakhs only) and in the event of failure to comply with the order to forfeit the bond and recover the amount as if fine under Section 53 I.P.C. r/w 421 and 431 I.P.C. to confiscate reasonable amount out of it to the State if necessary by bringing the property to sale.

09. Having regard to the above and in the result, the lower Court is also directed to the above extent to relax the condition of leaving the jurisdiction of the Court in the meantime by allowing the CrI.MP.No.6527 of 2015 to that extent. Accordingly, the CrI.P.No.8249 of 2017 is allowed.

10. Pending miscellaneous petitions, if any, shall stand closed.

JUSTICE Dr. B.SIVA SANKARA RAO

Date: 22.09.2017
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