

THE HON' BLE SRI JUSTICE M. SEETHARAMA MURTI

CRIMINAL REVISION CASE No.1953 of 2017

ORDER:

This criminal revision case, under Sections 397 & 401 of the Code of Criminal Procedure, 1973, ('the Code', for brevity) is directed against the orders, dated 24.06.2017, of the learned Principal Judicial Magistrate of First Class, Kodad, passed in CrI.MP.No.1637 of 2017 in CC.No.438 of 2016.

2. I have heard the submissions of *Sri Godey Sathish*, learned counsel for the petitioner, and of the learned Public Prosecutor (TG), representing the 1<sup>st</sup> respondent-State, at the stage of admission. I have perused the material record.

3. By the orders impugned in this revision, the request of the petitioner-A1, to permit him to go overseas in connection with his employment as and when necessary, is negatived and his petition was dismissed.

4. The case of the petitioner-A1 and the submissions made on his behalf, in brief, are as follows:

He was the 1<sup>st</sup> accused in the afore-stated Calendar Case taken on file for the offences punishable under Sections 498-A, 506, 323 of IPC and Sections 3 & 4 of the Dowry Prohibition Act, 1961. The crime was registered by the police on the false report of the *de facto* complainant/ 2<sup>nd</sup> respondent herein. During the course of investigation, her family members and witnesses who are interested were only examined and a charge sheet was filed. Pursuant thereto, the Calendar Case was taken on file. Neither the petitioner-A1 nor the other accused, who are his family members, committed any offences as alleged in the first information report and the charge sheet. They have got fair chances of success in the Calendar Case. The quash petition in CrI.P.No.13783 of 2016 was dismissed by this Court without touching the merits of the matter and with

a direction to the trial Court to proceed with the trial without insisting upon the presence of A2 to A5 in the Calendar Case on the date of each and every adjournment. The operative portion of the order of this Court in the said criminal petition reads as under: - 'However, considering the facts and circumstances of the case and as requested by learned counsel for the petitioners, the Criminal Petition is disposed of, directing the Court below to proceed with the trial, however, without insisting for the presence of petitioners 2 to 5 herein/ A2 to A5 for each and every adjournment, unless it feels that their physical presence is necessary for any specific purpose. The counsel on record shall represent the petitioners 2 to 5 herein/ Accused Nos.2 to 5 before the Court below on each and every date of hearing the case. The first petitioner/ Accused No.1 shall ensure his presence before the Court below on each and every date of hearing the case.' This petitioner/ A1 is appearing before the trial Court regularly. He is working in HCL Technologies in Chennai as Project Head. Earlier, that is, since 2012, he worked at Netherlands. He was again posted at HCL Netherlands on 01.02.2014. Since then he worked at Netherlands till he came back to India on the 2<sup>nd</sup> respondent filing the false complaint against him and his family members. On account of the pendency of the criminal case, he was forced to come back to India and work at Chennai. He is now continuing to work at Chennai. His Company again directed him to work at HCL, Netherlands. On account of requirement of his presence in the Calendar Case, he sought travel permission from the trial Court to go to Netherlands and work at HCL, Netherlands. The presence of the petitioner-A1 at Netherlands is necessary for completion of the projects at that place as directed by his Company. If permission is granted to travel to Netherlands, he is prepared to abide by any conditions that may be imposed by the Court. Being unable to secure leaves and travel from Chennai to Kodad on every date of hearing, the petitioner-A1 filed CrI.MP.No.3866 of 2016 before the trial Court under Section 205 of the Code praying to dispense with his presence on

each and every date of adjournment and accordingly permission is accorded to him to be represented by a special vakalat holder. In view of the subsequent developments and directions of the Company, the petitioner-A1 has no other alternative except to take travel permission from the Court. If permission is not accorded to travel to Netherlands and work at HCL, Netherlands, he is likely to lose his employment, which is his only source of survival. He is ready to co-operate for trial of the Calendar Case. The trial has not yet commenced. If he travels to Netherlands and is permitted to work there, without causing hindrance to the progress of the trial of the case, no prejudice would be caused to the 2<sup>nd</sup> respondent-*de facto* complainant. However, the petition of the petitioner was dismissed by the trial Court keeping in view the orders of this Court in CrI.P.No.13783 of 2016 by *inter alia* observing that the petitioner has to approach High Court and that the trial Court has no power to permit him to travel abroad in view of the orders of this Court in the Criminal Petition. Hence, the petitioner is before this Court.

5. Learned Public Prosecutor brings to the notice of the Court the following further facts: - 'CrI.P.MP.No.3655 of 2017 in/ and CrI.P.No.3609 of 2017 was filed by the petitioner-A1 requesting to permit him to be represented by a special vakalat holder in the Calendar Case. That petition and the criminal petition were dismissed by this Court, on 02.06.2017, giving him liberty to approach the trial Court. Further, in CrI.P.No.13783 of 2016, this Court by orders, dated 30.09.2016, directed the petitioner-A1 to ensure his presence before the Court below on each and every date of hearing of the case. Only on such an undertaking given, the orders in the said Criminal Petition were passed.'

6. I have bestowed my attention to the facts and submissions. I have carefully gone through the record. The petitioner has not filed any documents of the recent times in support of his contention that his company requires his

presence at HCL, Netherlands, for completion of a project at that place. He no-doubt filed a document, dated 03.10.2012, showing his posting at HCL, Netherlands. Admittedly, that posting relates to the period of the year 2012. The other document, dated 10.01.2014, which also relates to his posting at HCL, Netherlands, also is not a recent document and is, therefore, of no avail to the petitioner-A1. The petitioner-A1 could not produce any document of recent times to show that his Company gave posting orders directing him to work at HCL, Netherlands. Admittedly, the petitioner-A1 is now working at HCL, Chennai. In the light of the fact that no document of recent times is produced from the Company of the petitioner showing his present posting at HCL, Netherlands, this Court finds that the petitioner could not make out valid and sufficient grounds for according permission to go to Netherlands. Viewed thus, this Court finds that there is no merit in the revision and that the order impugned does not call for any interference.

7. In the result, the Criminal Revision Case is dismissed. However, since the request of the petitioner is not considered by this Court only on the sole ground that he did not file any latest document either showing his posting at HCL, Netherlands, or to show that his presence is required for completing the project at HCL, Netherlands, liberty is reserved to the petitioner to approach the trial Court and file a fresh petition, if he so desires, along with necessary supporting documents, and make a fresh request for permission to go to Netherlands. It is made clear that if any such application comes to be filed, the trial Court shall dispose of the same on its merit, however, uninfluenced by the observations made, if any, in any of the orders of this Court till date.

Pending miscellaneous petitions, if any, shall stand closed.

20.07.2017  
Vjl

M. SEETHARAMA MURTI, J

