

THE HON' BLE SRI JUSTICE M. SEETHARAMA MURTI

Criminal Revision Case No.1537 of 2017

ORDER:

This Criminal Revision Case, under Sections 397 & 401 of the Code of Criminal Procedure, 1973, ('the Code', for short) by the petitioner-A1 is directed against the orders, dated 24.05.2017, of the learned Judicial Magistrate of First Class, (Special Mobile Court), Mahabubnagar, passed in CrI.MP.No.559 of 2017 in CC.No.33 of 2017. By the said orders, the trial Court dismissed the afore-stated Miscellaneous Petition filed by the petitioner-A1 requesting the Court to permit him to travel abroad.

2. I have heard the submissions of the learned counsel for the petitioner-A1 and of the learned Public Prosecutor (TG) representing the 1st respondent-State. I have perused the material record.

3. The case of the petitioner, in brief, is this: - 'He is the husband of the 2nd respondent-*de facto* complainant. On her complaint, the police of Atmakur registered a case in Crime No.106 of 2014 and later filed charge sheet against the petitioner-A1 and others for the offences punishable under Sections 498-A & 406 of IPC and Sections 3 & 4 of the Dowry Prohibition Act, 1961. The above complaint was filed, on 23.08.2014, by the 2nd respondent-*de facto* complainant. At that time, the petitioner-A1 was staying at USA. Having come to know about the pendency of the case, he returned to India, on 14.12.2016. The trial in the Calendar Case is in progress. In USA, presently there is an issue concerning the job holders, who have obtained jobs through H1B Visa. The petitioner-A1 is presently working in USA in Verian Technologies LLC, USA. He had obtained permission to travel to India only for a period of four (04) weeks from 14.12.2016. It is, therefore, necessary for him to return to USA and join his firm to eke out his livelihood. If he does not appear before his employer within a period of one week his employment in the Company/ firm may be

terminated. Earlier, the petitioner filed a petition requesting to permit him to travel to USA. The said petition was dismissed by fixing the trial schedule and according to the trial schedule the trial is to be held on 19.04.2017, 20.04.2017 and 26.04.2017. On all the said three days, the petitioner-A1 and his counsel were present before the trial Court. The evidence of PWs1 to 6 is completed. The evidence of PW7 is recorded in part. The case was posted to 14.06.2017 for filing documents. The petitioner-A1 appeared before the trial Court on the dates fixed for trial as per schedule and also co-operated for the trial of the case. Since the petitioner obeyed the orders of the trial Court he may be permitted to travel to USA. He undertakes to present before the trial Court at the time of his examination under Section 313 of the Code and also on the date of pronouncement of judgment.

4. In the trial Court, a counter is filed stating that the cross examination of PW7 was deferred at the request of the counsel for the accused as according to the accused, the PW7 was required to produce certain documents and that the prosecution is always ready and willing to proceed with and complete the trial and that the accused are only intentionally dragging on the matter by taking time.

5. At the hearing, while reiterating the case of the petitioner, which is already stated supra, learned counsel for the petitioner-A1 submitted as follows:

When the trial Court dismissed the earlier application for permission to travel abroad and fixed the trial schedule, the petitioner-A1 obeyed the directions of the trial Court and co-operated for progress of the trial. PWs1 to 6 are examined and the matter is now coming up for further cross examination of PW7. PW7 is yet to produce the documents. The prosecution is taking time. In view of the fair conduct of the petitioner-A1, the trial Court ought to have permitted him to travel abroad by recording his undertaking that he

would appear before the trial Court for his examination under Section 313 CrPC and at the time of pronouncement of judgment. Therefore, the order of the trial Court is erroneous.

6. Learned Public Prosecutor supported the orders of the trial Court and stated that the matter is at the fag end of the trial and that the case before the trial Court was adjourned at the instance of the accused when their counsel sought time for cross examination of PW7 on the ground that PW7 is required to produce certain documents and that there is no progress in the trial only because of the fact that the counsel for the petitioner-A1 has sought time for cross-examination of PW7.

7. From the record, it appears that though the petitioner stated in his petition filed before the trial Court that he was required before his employer and report to duty, he did not file any documents along with the petition in support of the said contention. In the petition filed before the trial Court, no reference was made to any documents by which the petitioner was called upon by his employer to return to USA and report to duty. However, at the hearing in this criminal revision case, learned counsel for the petitioner has drawn the attention of this Court to a document, dated 08.06.2017, said to have been addressed through G-mail to the petitioner by an officer concerned of his Company/firm wherein it is stated that the petitioner is out of USA since 12.12.2016 and that his absence dislocated normal work of the establishment and that such absence on the petitioner's part had adverse affect both on output as well as on discipline and, therefore, he was required to give the Company/firm in writing his final date of joining duty and that on his failure to do so, it would be assumed that the petitioner is no more interested in continuing the job and that he will be treated as an absconder and necessary formalities will be completed accordingly. Along with the material papers, no reply, if any given by the petitioner to his employer, is filed. It is to be noted

that the petition is filed before the trial Court in May, 2017 without any supporting document. The impugned order was passed on 24.05.2007. Therefore, the afore-stated letter, which was said to have been received through G-mail and filed along with the revision case, needs no countenance. As could be seen from the record, after examination of PWs1 to 6, there was no further progress in the trial as the learned counsel for the petitioner-A1 and other accused sought time for further cross examination of PW7 on the ground that PW7 was required to produce documents. As rightly pointed out by the learned Public Prosecutor, the case is at the fag end of trial. Hence, at this stage, according permission to the petitioner-A1 to travel to USA would unnecessarily delay the progress of the trial and the disposal of the case. Therefore, this Court is of the considered view that the trial Court is justified in dismissing the petition of the petitioner and that the order of the trial Court does not warrant interference.

8. In the result, the Criminal Revision Case is dismissed. However, the trial Court is directed to complete the further trial and dispose of the case on merits in accordance with the procedure as expeditiously as possible and preferably within a period of two (02) months from the date of receipt of a copy of this order.

Miscellaneous petitions, pending if any, in this revision shall stand closed.

15th June, 2017
Note: Issue CC by 16.06.2017
(B/o)
VJI

M. SEETHARAMA MURTI, J