

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No. 17493 of 2017

ORDER:

The present Writ Petition came to be filed seeking issuance of writ of mandamus declaring the action of the respondents in not allowing the petitioner to go to abroad (Saudi Arabia), as illegal, arbitrary, unconstitutional and violation of the Fundamental Rights guaranteed under the Constitution of India.

2) The averments in the affidavit show that the petitioner herein married the 5th respondent herein in the year 2004 and out of the wedlock they were blessed with three children. It is the case of the petitioner that differences arose between them, which lead to lodging of a report before the 4th respondent, who registered it as a case in Crime No.63 of 2017 for the offences punishable under Sections 498-A, 494 and 506 read with 234 IPC and Sections 3 and 4 of the Dowry Prohibition Act. The petitioner herein is said to have filed Crl.P.No.2655 of 2007 seeking anticipatory bail, which was allowed on 06.04.2017 on certain terms and conditions. One of the conditions being that the petitioner shall report before the Station House Officer, I Town Police Station, Adilabad on every Saturday between 10 and 12 noon for a period of two months or till filing of charge-sheet whichever is earlier. The said order was passed on

06.04.2017. Subsequently, he filed an application to relax the said condition vide Crl.P.M.P.No.3626 of 2017, which was dismissed on 28.04.2017. While things stood thus, the petitioner without getting the conditions relaxed or without seeking any permission from any court, tried to leave India as he has to report before his employer on or before 07.06.2017. The Airport authorities did not allow him to leave India in view of the LOC notice No.2017405917 issued against the petitioner. Pursuant thereto, the petitioner herein claimed to have made a representation before the authorities seeking withdrawal of the LOC. But the grievance of the petitioner is that the same is not considered till date. It is to be noted here that neither a copy of the said representation is placed before this Court nor it is averred in the affidavit that such a representation was made before the appropriate authority except making an oral statement. Challenging the action of issuing of the authorities in issuing LOC, the present Writ Petition came to be filed.

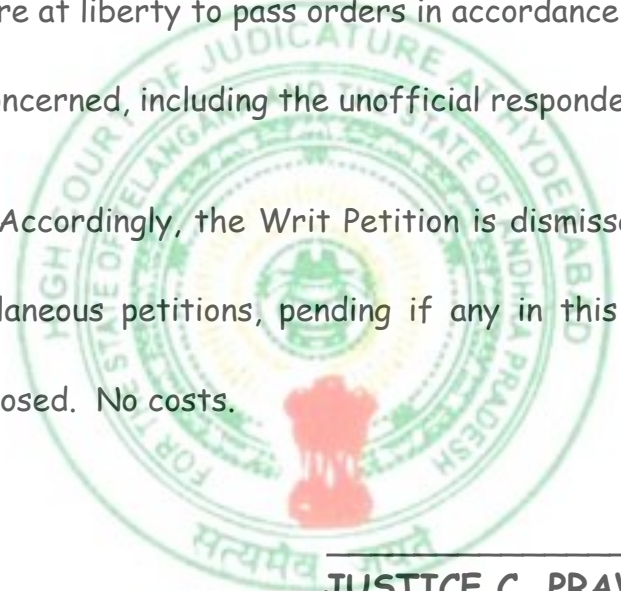
3) On 02.06.2016 this Court issued Notice Before Admission and the learned counsel for the petitioner was also permitted to take out personal notice on respondent No.5 and file proof of the same. On 06.06.2017 this Court heard the learned counsel for the petitioner, Government Pleader as well as the unofficial respondent, who appeared in person.

4) Relying upon the judgments of Madras High Court, the learned counsel for the petitioner would submit that the very issuance of LOC is illegal, improper and incorrect. According to him, in the absence of any NBWs being pending before any court, the authorities could not have issued the LOC. But at the same time, the learned Government Pleader placed on record the judgment of this Court in W.P.No.3213 of 2015, wherein this Court observed that it would be proper and appropriate if the aggrieved person approaches the Investigating Officer or the authority which has issued the circular or the court where the case is pending consideration seeking withdrawal or cancellation of LOC by filing a necessary petition in accordance with law. In view of order of this Court in W.P.No.3213 of 2015, the petitioner cannot seek any relief in this Writ Petition.

5) Further, from the material papers filed before this Court, it is clear that the petitioner herein tried to leave India on 03.05.2017, without getting the conditions relaxed. Such an attempt came to be made after the dismissal of the application filed by the petitioner, seeking relaxation of the conditions. The Xerox copy of the passport, which has been placed before this Court, show the seal of the immigration authorities (departure) dated 03.05.2017. Therefore, it is clear that the petitioner has not come to the Court with clean hands. When he is aware about the conditions imposed while granting anticipatory bail and also about the rejection of his

application for relaxation of the conditions, the petitioner ought not to have made any effort to leave India. Therefore, the apprehension expressed by the 5th respondent that the petitioner will not come back to India if he leaves the country cannot be brushed aside. At this stage, the learned counsel for the petitioner would submit that he made a representation to the authorities, who have issued LOC, for withdrawal of the same. It is always open to him to pursue the remedies as enumerated in W.P.No.3213 of 2015, in which event, the authorities are at liberty to pass orders in accordance with law, after hearing all concerned, including the unofficial respondent herein.

6) Accordingly, the Writ Petition is dismissed. As a sequel to it, miscellaneous petitions, pending if any in this Writ Petition, shall stand closed. No costs.



JUSTICE C. PRAVEEN KUMAR

Dt: 08.06.2017
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