

HON' BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No.24407 of 2017

ORDER:

1) The present writ petition came to be filed with the following relief:

“issuance of writ of mandamus declaring the action of the respondent No.3 in interfering with the family affairs of the petitioner despite the orders of the Supreme Court as illegal, arbitrary; and consequently direct the respondents especially respondent No.3 not to interfere with the family affairs of the petitioner and also not to take away petitioner's son from his custody, who is residing at Kurnool with petitioner's parents as the matter is already settled in the Court by referring all the matters in Lok Adalath at Kurnool.”

2) The averments in the affidavit filed in support of the writ petition would show that the marriage of the petitioner with respondent No.4 took place on 13.05.2005 at Beechpalli Temple, Gadwal District, as per Hindu rites and customs. Thereafter, respondent No.4 joined the matrimonial home at Kurnool. Out of wedlock, they blessed with a son by name Heet Jain, who is aged about 4 years. It is also stated in the affidavit that the parents, sisters and other relatives of respondent No.4 came to the house of the petitioner at Kurnool, created nuisance on the point of gifts and ornaments that were given at the time of marriage reception, but respondent No.4 supported the petitioner and informed her

parents that she would stay with her husband at Kurnool and would not go back to Ajmeer with her parents. The averments in the affidavit also show that the petitioner spent an amount of Rs.1.00 lakhs for treatment of his in-laws. Thereafter, disputes arose between the petitioner and respondent No.4, which lead to filing of Divorce O.P.No.123 of 2006, M.C.No.293 of 2006 before the Family Court, Ajmeer, C.C.No.647 of 2006 on the file of the Judicial Magistrate of First Class-II, Ajmer and D.V.C.No.64 of 2007 on the file of the Judicial Magistrate of First Class-I, Ajmeer, though the petitioner was residing at Kurnool along with her parents. At the instigation and influence of her parents, respondent No.4 filed the above false cases. In the month of March, 2009 also respondent No.4 went to Ajmeer and filed a case against the petitioner for the offences punishable under Sections 498-A and 406 IPC. She also filed F.C.O.P.No.243 of 2008 seeking divorce, which was later withdrawn by her on 01.06.2009. Since respondent No.4 did not join the petitioner, he filed F.C.O.P.No.9 of 2007 seeking restitution of conjugal rights, which was allowed on 27.04.2007, in which respondent No.4 remained exparte though notices were served on her. The petitioner once again filed F.C.O.P.No.61 of 2008 seeking restitution of conjugal right, as respondent No.4 did not join the matrimonial house of the petitioner despite the orders passed in F.C.O.P.No.9 of 2007. The petitioner Filed E.P.No.5 of 2009 before the Family Court, Kurnool for execution of the decree. In the counter, respondent No.4 undertook that she has also decided to withdraw the cases

filed by her against the petitioner and his family members. Hence, E.P. was referred to Lok Adalath, Kurnool and an award was passed. When respondent No.4 left the company of the petitioner, once again the petitioner filed E.P.No.4 of 2014, which was settled out of the Court. It is also stated in the affidavit that on 19.07.2017 respondent No.3 made a phone call to the petitioner to come to Police Station stating that his wife has lodged a report against him. On 20.07.2017 the petitioner gave a report to respondent No.2 against his wife as she threatened over telephone stating that she will take away the child to Ajmeer. Respondent No.3 called the father of the petitioner and his neighbour by name Sushil and detained them for morethan a hour and threatened them stating if they won't make the petitioner present in the Police Station along with son on 21.07.2017, they will register false criminal cases against all his family members. Apprehending arrest, the petitioner filed the present writ petition.

3) Though various grounds are raised, the learned counsel for the petitioner restricts his prayer seeking a direction to respondent No.3, not to interfere with the family affairs of the petitioner.

4) Government Pleader for Home, while denying the allegations made in the affidavit filed in support of the writ petition, submits that on one occasion, the police called the petitioner to the police station as the wife of the petitioner lodged a report alleging

kidnap. It is the case of the respondents that they never interfered with the family affairs of the petitioner.

5) In view of the submissions made, the writ petition is disposed of directing respondent No.3 not to interfere with the family affairs of the petitioner, except in accordance with the procedure established under law.

6) There shall be no order as to costs. Consequently, miscellaneous petitions, if any, pending in this Writ Petition shall stand closed.

JUSTICE C. PRAVEEN KUMAR

24.07.2017

Note: Issue C.C. tomorrow.

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