

HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

WRIT PETITION No.18930 OF 2009

ORDER:

In this writ petition, the petitioner seeks a writ of mandamus declaring the action of the 2nd respondent in not impounding the passports of the accused persons (i.e., A1 to A4 in Crime No.1313 of 2008 of L.B.Nagar Police Station) as arbitrary and illegal and to direct the respondent No.2 to impound their passports.

2. Petitioner's case is that she was married with A1 on 08.02.2006 and her parents gave sumptuous dowry and other paraphernalia at the time of marriage. After marriage, herself and A1 went to U.S.A. and since the date of marriage, A1 was subjecting her to mental and physical torture demanding more dowry and while so, she gave birth to female baby. Even thereafter, A1 and his parents started harassing her physically and mentally for additional dowry and when she expressed her inability, A1 pressurized her to give divorce. Unable to bear the torture of the accused, she came back to India and lodged a complaint against the accused on 26.12.2008 before L.B.Nagar Police Station, which was registered as case in Crime No.1313 of 2008 for the offence under Section 498-A IPC and Sections 3 and 4 of Dowry Prohibition Act. Her further case is that the accused have been residing at U.S.A. and in spite of sending various summons by the learned Magistrate, they did not choose to

make their appearance and N.B.Ws issued. The presence of the above accused is very much necessary for adjudication of the criminal case. The petitioner made a representation to Circle Inspector of Police, L.B.Nagar Police Station, to take steps to get the accused to India from U.S.A. by way of Red Corner Notice. C.I. of police in turn addressed a letter to Commissioner of Police, Cyberabad, with a request to take steps to issue Red Corner Notice by duly enclosing the prescribed proforma of Red Corner Notice. Apart from the above, the C.I. of police also addressed a letter to the 2nd respondent not to renew the passport of A1 and block the same. However, till date no Red Corner Notices were issued to the accused persons. Hence, the writ petition seeking for a declaration that the action of the 2nd respondent in not impounding the passports of the accused as illegal.

3. No counter affidavit is filed on behalf of the respondents.

4. When the matter came up for hearing, learned counsel for the petitioner would fairly submit that subsequent to the filing of the writ petition, the accused Nos.1 to 4 have filed CrI.P.No.8401 of 2009 before the High Court, under Section 482 Cr.P.C., seeking to quash the proceedings against them in C.C.No.166 of 2009 on the file of II Metropolitan Magistrate, Cyberabad at L.B.Nagar. After enquiry, this Court allowed the criminal petition so far as accused Nos.2 to

4 are concerned and quashed the proceedings against them. The case against A1 was directed to be proceeded.

5. From the above submission of the learned counsel for petitioner, it is clear that the criminal proceedings in C.C.No.166 of 2009 against accused Nos.2 to 4 were already quashed by the High Court and therefore, this writ petition so far as seeking impounding of the passports of the accused Nos.2 to 4 has become infructuous. So far as A1 is concerned, the submission of learned counsel for petitioner would disclose that he is facing the criminal case in C.C.No.166 of 2009 on the file of II Metropolitan Magistrate, Cyberabad at L.B.Nagar. The grievance of the petitioner while filing of the writ petition was that all the accused were staying at U.S.A. and are not attending the Court and therefore, the criminal case was not proceeded. However, now that A1 alone has to face the criminal proceedings and it appears he is facing the trial before the trial court, there is no point in making any order in the instant writ petition. In that view, this writ petition is closed with an observation that the *de facto* complainant can pursue her remedies in the criminal case before the trial court.

As a sequel, miscellaneous petitions pending, if any, shall stand closed. There shall be no order as to costs.

U.DURGA PRASAD RAO, J

14.08.2018
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