

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION No. 5758 OF 2018

ORDER:

This petition is filed under Section 482 of the Code of Criminal Procedure (for short, 'Cr.P.C.') questioning the order dated 23-04-2018 in Criminal Revision Petition No. 90 of 2018 on the file of the Court of Metropolitan Sessions Judge, Hyderabad (for short, 'the Court below').

2. The petitioner is accused No. 1 in C.C.No. 141 of 2015 on the file of the Court of XIII Additional Chief Metropolitan Magistrate, Mahila Court, Hyderabad (for short, 'the trial Court'), registered for the offences punishable under Sections 498-A, 406 and 420 read with Section 34 of IPC and Sections 4 and 6 of Dowry Prohibition Act. The trial Court by order dated 02-02-2018 in Criminal M.P.No. 341 of 2018 while enlarging the petitioner on bail directed him not to leave India without prior permission from the Court and further directed to attend each and every adjournment. Thereafter, the petitioner filed Criminal M.P.No. 574 of 2018 under Section 451 of Cr.P.C. before the trial Court for return of his passport and permission to leave India stating that he is working as a Chief Chef at Pranama Restaurant in Dominican Republic Nation and that to attend his duties, he is required to return to Dominican Republic Nation, otherwise he will be put to serious inconvenience. The trial Court by order dated 12-03-2018 dismissed the above miscellaneous petition. Aggrieved thereby, the petitioner preferred revision before the Court below. By the impugned order, the Court below dismissed the revision. Feeling aggrieved, the petitioner filed the present petition.

3. As seen from the material on record, during investigation, the passport of the petitioner was seized. Without modifying the condition imposed in Criminal

M.P.No. 341 of 2018 by the trial Court, granting relief as sought in Criminal M.P.No. 574 of 2018 would amount to modification of the condition imposed by the trial Court. Unless a petition under Section 439 (1) of Cr.P.C. is filed, the condition in bail cannot be modified or set aside. Therefore, this Court cannot issue such direction unless the condition imposed by the trial Court in Criminal M.P.No. 341 of 2018 is modified. This Court while exercising power under Section 482 of Cr.P.C. cannot decide such an issue.

4. In view of the above discussion, the criminal petition is dismissed leaving it open to the petitioner to renew his request either for modification of the condition imposed in the bail or to file a petition for return of the property only or both. Pending miscellaneous petitions, if any, in this criminal petition shall stand dismissed in consequence.

Date: 17-07-2018.
JSK

M.SATYANARAYANA MURTHY, J.

