

THE HON'BLE SRI JUSTICE P.KESHA RAO

CRIMINAL REVISION CASE No.1618 OF 2018

ORDER:

This Criminal Revision Case is filed against the orders passed in CrI.M.P.No.139 of 2018 in C.C.No.90 of 2016, dated 22.01.2018, dismissing the petition filed under Section 70(2) of Cr.P.C. to recall the warrants issued against the petitioner on 26.03.2016, on the file of XIII Additional Chief Metropolitan Magistrate, Mahila Court, Hyderabad.

Heard the learned counsel for the petitioner as well as the learned Public Prosecutor appearing for the respondent-State.

The facts of the case are that the petitioner herein is residing in U.S.A. and he is a Green Card Holder. His marriage with Smt. Madhavi Sanata was dissolved by the matrimonial Court i.e. Superior Court of New Jersey, Chancery Division, Family Part, Morris County vide Document No.FM-14-1386-14 after due contest. The wife was given a sum of 10,000 US Dollars towards total settlement in the course of divorce proceedings. However, the father of the wife filed a complaint in India for the offence under Section 498-A, 406 I.P.C. and Sections 4 and 6 of Dowry Prohibition Act. The concerned police filed charge sheet for the said offence. The Court below has taken cognizance of the offence and numbered the same as C.C.No.90 of 2016. It appears, the Court below has issued warrants to the petitioner herein by showing him as absconding. Aggrieved by the same, the petitioner herein filed petition in CrI.M.P.No.139 of 2018 to recall the said

warrants. However, the said petition has been dismissed on 22.01.2018. Aggrieved by the same, the present revision is filed.

The counsel appearing for the petitioner would contend that the petitioner herein is residing in U.S.A. In the complaint, the specific address of the petitioner is shown as 2467-RT-10 B5-4A Morris Pallins, New Jersey, U.S.A. When the specific address has been mentioned, without issuing the summons to the said address, in compliance with the mandatory procedure as contemplated under Section 105 of Cr.P.C., a warrant cannot be issued.

Be that as it may, a perusal of the impugned order would indicate that the application was dismissed as there was no representation for the petitioner when the matter was called. After hearing the learned counsel for the petitioner and after going through the material on record, this Court is of the opinion that when a specific address of the petitioner is mentioned, without issuing summons to the petitioner, N.B.Ws. cannot be issued. Therefore, there is a patent irregularity in the impugned order of the Court below in issuing the warrants itself against the petitioner.

In these circumstances, this Court deems it appropriate to set aside the order dated 22.01.2018 in dismissing CrI.M.P.No.139 of 2018 in C.C.No.90 of 2016 filed under Section 70(2) of Cr.P.C. and the N.B.Ws. dated 26.03.2016 issued against the petitioner are hereby recalled. However, it is made clear that the petitioner should appear before the XIII Additional Chief Metropolitan Magistrate, Mahila Court, Hyderabad within 15 days from today,

failing which, the order passed herein would automatically stand vacated.

With the above said directions, the Criminal Revision Case is disposed of.

Pending miscellaneous petitions, if any, shall also stand closed.

P.KESHAVA RAO,J

28th JUNE 2018.

Note: Issue C.C. in three days.

(B/o) Tsr

