

* THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

+ Civil Revision Petition No.738 of 2019

% Date: 07.11.2019

Between:

Sundeeep Reddy Tirumala Reddy

... Petitioner

and

Dondeti Anusha Reddy

... Respondent

! Counsel for the Petitioner : Mr.Mohammed Islamuddin Ansari

^ Counsel for the Respondent : Sri P. Venu Gopal, Senior Counsel for
Sri Chetluru Sreenivas

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? Cases referred

1) AIR 2017 AP 88

THE HON'BLE Dr.JUSTICE SHAMEEM AKTHER

CIVIL REVISION PETITION No.738 of 2019

ORDER:

This Civil Revision Petition, under Article 227 of the Constitution of India, is filed by the petitioner/husband, aggrieved by the order, dated 25.01.2019, passed in I.A.No.520 of 2018 in H.M.O.P.No.79 of 2016, by the learned Judge, Family Court at Secunderabad, whereby, the petition filed by the petitioner/husband, under Section 151 of C.P.C., seeking permission to record his evidence through video conference, was dismissed.

2) Heard the arguments of Mohd. Islamuddin Ansari, learned counsel for the revision petitioner/husband, Sri P.Venu Gopal, learned senior counsel, representing Sri Chetluru Sreenivas, learned counsel for the respondent/wife and perused the record.

3) Learned counsel for the revision petitioner/husband would contend that the impugned order passed by the Court below is contrary to law and facts of the case. There is settled legal position that in the given circumstances, the subject interlocutory petition could have been allowed by the Court below, permitting the revision petitioner/husband to record his evidence through video conference/Skype technology. The Court below erroneously observed in the impugned order that it would not be possible for the Court to observe the demeanor of the witness, if the evidence is recorded through video conference. Skype technology is accurate, effective and there will be no error in recording the

evidence as sought. The Court below ought to have allowed the subject interlocutory application. The revision petitioner/husband is residing in U.S.A. and working as a Senior Staff Software Engineer in Multi-National Company, i.e, Google. He applied leave for two weeks to appear before the Court below for the purpose of his cross-examination, but the same was declined by his employer, vide letters, dated 09.04.2018 and 19.04.2018, stating that he being the head, has to execute several critical short term and long term projects and that his daily appearance is necessary for the timely execution of the projects on hand. It is also contended that if the revision petitioner/husband reaches India to depose in the subject O.P, there is every possibility of his losing the employment in U.S.A. It is difficult for the revision petitioner/husband to appear before the Court below, in person, for his cross-examination. His evidence can be easily recorded through video conference/Skype technology and ultimately prayed to set aside the order under challenge and allow the Civil Revision Petition as prayed for. In support of his contentions, learned counsel had relied upon the decision of this Court in *Sirangai Shoba @ Shoba Munnuri v. Sirangi Muralidhar Rao*¹.

4) On the other hand, learned senior counsel appearing for the respondent/wife would submit that the relief sought by the revision petitioner/husband is a discretionary relief. The Court below was justified in passing the impugned order, assigning various reasons. In *Sirangai Shoba's* case relied upon by the learned counsel for

¹ AIR 2017 AP 88

the revision petitioner/husband, several safeguards/conditions were imposed and it is not easy to abide by those safeguards/conditions and get the cross-examination of the revision petitioner/husband recorded through video conference. It is also submitted that there are criminal cases pending against the revision petitioner/husband and a Lookout Notice is also issued against him. The revision petitioner/husband, only to avoid his arrest, had filed the subject interlocutory application. The Court below, having analysed the entire material on record, rightly dismissed the subject interlocutory application. There is nothing to take a different view and ultimately prayed to dismiss the Civil Revision Petition.

5) In view of the submissions made by both sides, the point that arises for determination in this Civil Revision Petition is:

“Whether the impugned order, dated 25.01.2019, passed in I.A.No.520 of 2018 in H.M.O.P.No.79 of 2016 by the learned Judge, Family Court at Secunderabad, is liable to be set aside?”

POINT:

6) Admittedly, the relief sought in the subject interlocutory application is a discretionary relief. The subject interlocutory application was filed stating that the revision petitioner/husband is working as a Senior Staff Software Engineer in a Multi-National Company i.e, Google, in U.S.A. and discharging key functions and that when he applied for leave to come to India to appear before the Court, his employer at U.S.A. had declined to grant leave, vide letters, dated 09.04.2018 and 19.04.2018 and hence, it is difficult

for the revision petitioner/husband to appear before the Court below, in person, for the purpose of his cross-examination. There is record to show that a criminal case is registered against the revision petitioner/husband and others for the offences under Sections 498A, 420, 406, 506, 379 r/w 120B of IPC and Sections 4 & 6 of Dowry Prohibition Act, 1961, before the Women Police Station, CCS, Hyderabad, vide Crime No.208/2016 and charge sheet was also filed in the said crime and the case is numbered as C.C.No.378 of 2016 on the file of XIII Additional Chief Metropolitan Magistrate, City Criminal Courts, at Nampally, and the same is pending. There is also record to show that the Deputy Commissioner of Police, Detective Department, has issued a Lookout Notice against the revision petitioner/husband, vide letter No.61/ACP/CMS/DD/2017, dated 17.04.2017, for impounding the Passport of the revision petitioner/husband.

7) There is no dispute with regard to the power of the High Court to allow a party to the proceedings to record cross-examination using Skype technology/Video conference. The question is whether sufficient grounds are made out for granting such a relief or not. Earlier, when the revision petitioner/husband applied for leave to come to India to appear before the Court, his employer at U.S.A. declined to grant leave, long back i.e, in April, 2018. Generally, there will be vacation in U.S.A. in the month of December, every year. On completion of certain period of service, an employee is entitled for paid holidays. In the given circumstances, it is not that difficult, as projected by the revision petitioner, to apply for leave and come to India to depose in the

subject H.M.O.P. It is also relevant to state that when there is a criminal case pending against the revision petitioner/husband and a Lookout Notice was also issued against him as indicated above, it is the bounden duty of the revision petitioner/husband to surrender to law and face the proceedings. In the given circumstances, a presumption that the revision petitioner/husband, in order to avoid criminal proceedings, has filed the subject interlocutory application cannot be ruled out. Furthermore, when a criminal case is pending against the revision petitioner/husband, allowing the subject interlocutory application amounts to facilitating him to avoid criminal trial, which is not permissible. The decision relied upon by the learned counsel for the petitioner in *Sirangai Shoba's* case is distinguishable on facts and is not helpful to the revision petitioner/husband.

8) It is apt to state that the supervisory jurisdiction conferred on the High Court under Article 227 of the Constitution of India is limited to see that a Court or Tribunal subordinate to it functions "*within the bounds of their authority*" and to ensure that law is followed by such Court or Tribunal by exercising jurisdiction vested in them and not declining to exercise the jurisdiction which is vested in them. Apart from the above, High Court can interfere in exercise of its power of superintendence, when there has been a patent perversity in the orders of the Courts or Tribunal subordinate to it or where there has been a gross and manifest failure of justice or the basic principles of natural justice have been flouted. In the instant case, neither there is patent perversity in the order under challenge nor the Court below travelled beyond its

jurisdiction in passing the impugned order. The circumstances placed on record, do not make out a case that the findings recorded by the Court below are perverse and interference is warranted by this Court. The Civil Revision Petition is devoid of merit and is liable to be dismissed.

9) Accordingly, the Civil Revision Petition is dismissed. No order as to costs.

Pending Miscellaneous Petitions, if any, shall stand closed.

Date: 07.11.2019
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Dr. SHAMEEM AKTHER, J

