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Crl.O.P. (MD)No.6199 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.04.2023

CORAM :

THE HONOURABLE **Mr. JUSTICE G.ILANGOVAN**

Crl.O.P. (MD)No.6199 of 2023

1.Sridhar
2.Sridevi

: Petitioners

Vs.

The Inspector of Police,
All Women Police Station,
Sattur,
Virudhunagar District.
(Crime No.16 of 2021)

: Respondent

Prayer:Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to direct the Judicial Magistrate No.1, Sattur to permit the petitioners to appear before the Court through video conferencing for answering the under section 313 questioning of the case in C.C.No.61 of 2022.

For Petitioners : Mr.S.Ramasamy

For Respondent : Mr.B.Nambiselvan
Additional Public Prosecutor

ORDER

This criminal original petition has been filed seeking for direction to the Judicial Magistrate No.1, Sattur to permit the petitioners to appear before the Court through video conferencing for answering under section 313 questioning of the case in C.C.No.61 of 2022.



Cr1.O.P. (MD)No.6199 of 2023

2.Heard both sides.

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3.The learned counsel for the petitioners would submit that the petitioners are facing charges under section 498(A), 406 IPC and section 4 of Dowry Prohibition Act, 1961, in CC No.61 of 2022 on the file of the Judicial Magistrate No.1, Sattur. Since the petitioners are working in USA, they are not in a position to attend the trial Court for the purpose of questioning under section 313 Cr.P.C. Hence, this petition has been filed.

4.Even though, the grievance of the petitioners appears to be genuine, whether such a course can be adopted by the trial court, must be decided on the basis of the rules framed by this court in this aspect.

5.The Madras High Court Video-Conferencing in Courts Rules, 2020, permits is the only point for consideration. It is not permissible to choose video-conference facilities in all the cases.

6.Rules 4 of the Madras High Court Video Conferencing in Courts, 2002 reads as under:-

"4.Application for conduct of Court proceedings through Video Conferencing:



Crl.O.P. (MD)No.6199 of 2023

(1)The Court, Suo Moto, or on the application of a party or witness decide to conduct the Judicial Proceedings by Video-conference.

(2)An application for Video-conferencing shall be supported by an affidavit evidencing the Justifiable Circumstances, and all relevant particulars of the proposed Remote Site.

(3)Except in case of urgent applications for ex-parte ad interim orders, the Court shall decide such application after serving notice to and hearing all parties concerned in accordance with these Rules.

(4)An order permitting the conduct of Judicial Proceedings through Video-Conferencing may:

(a)fix the date, time and schedule of the Video-Conference;

(b)appoint a co-ordinator at the Court Site and, where appropriate, at the Remote Site;

(c)enable public participation, through media representation or otherwise, at such hearings;



WEB COPY



Crl.O.P. (MD) No.6199 of 2023

(d) provide for in-camera hearing at the Court and Remote Site;

(e) direct the payment of costs of Video-Conferencing and fix the time for payment thereof;

(f) where the hearing is for purposes of examining a witness or accused, specify the manner of transmission and authentication of the deposition and documents to and from the Court Site and Remote Site and for the exhibition thereof;

(g) issue further directions as may be considered necessary, incidental or ancillary to the conduct of hearings by Video-Conference.

So the rule reads that application must be made by the party for deciding the justifiable circumstances.

7. What are the justifiable circumstances is defined in Rule 2(12), which would run thus:-

"(12) 'Justifiable Circumstances'

means circumstances under which it is not practicable, in the opinion of the Court concerned, to conduct court proceedings as per standard practice and includes, illustratively, pandemics, natural calamities, local unrest, law and order issue, matters relating to



WEB COPY



Crl.O.P. (MD) No. 6199 of 2023

health or safety or any other circumstance whatsoever on account of which Court Users or Remote Users cannot be physically present in Court."

8.The petitioners must satisfy the above said requirement by setting out proper facts and circumstances as to whether they are not in a position to come to India and face the proceedings.

9.Even though, all those points satisfied by the petitioners, the next point is whether such a relief is available or not and whether all those precautions can be undertaken or not, as the case may be, are the matter for consideration and it will take a length process. Because, the petitioners are not in India and they are in abroad. Whether the remote site facilities can be extended to abroad is also not clear. If the petitioners are available in India, the trial court would have rightly conceded or acceded the above said request. But here, it is not the case.

10.The next point is whether the petitioners have got proper permission to go to abroad is not clear on record. As per the procedural law, the petitioners ought to have got prior permission before going to abroad. These are also not explained by the petitioners. On that ground, the request made by the petitioners cannot be conceded.



Crl.O.P. (MD)No.6199 of 2023

11.This Court does not find any merit in this case.

Accordingly, this Criminal Original Petition stands
dismissed.

03.04.2023

Index : Yes/No
Internet:Yes/No
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To

- 1.The Judicial Magistrate No.1,
Sattur.
- 2.The Inspector of Police,
All Women Police Station,
Sattur,
Virudhunagar District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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Cr1.O.P. (MD) No. 6199 of 2023

G. ILANGO VAN, J.,

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Cr1.O.P. (MD) No. 6199 of 2023

03.04.2023