

**HON'BLE SMT. JUSTICE G. ANUPAMA CHAKRAVARTHY**

**Crl.P.No.2000 OF 2015**

**ORDER :**

This Criminal Petition is filed praying the Court to set aside/quash the proceedings in Crl.P.No.61 of 2014 on the file of III Additional Sessions Judge, L.B.Nagar, Ranga Reddy District.

2. For the sake of convenience, the parties herein shall be referred to as they are arrayed before the trial Court.

3. Initially, the defacto complainant preferred a complaint before the Inspector of Police, Maraimalai Nagar Police Station, Tamil Nadu against her husband/respondent dated 03.05.2012, for constant harassment of dowry and cruelty. Later, she preferred a report before the Station House Officer, P.S. Malkajgiri, Cyberabad dated 03.07.2012 against the respondent, her mother-in-law and brother-in-laws for ill treating, harassing her mentally and physically for want of additional dowry. Basing on the said complaint, a case was registered against the respondent/husband vide Crime No.298 of 2012 for the offences

punishable under Sections 498-A and 406 of IPC and also under Sections 3 and 4 of the Dowry Prohibition Act.

4. It is pertinent to mention that two petitions were preferred by the wife and husband, vide Crl.M.P.Nos.3639 of 2012 and 4716 of 2012 in Crime No.298 of 2012 respectively seeking interim custody of gold ornaments under Section 451 of Cr.P.C. The trial Court vide common order dated 07.05.2014 dismissed the Crl.MPs with a specific direction to the concerned Police to deposit the case property, immediately before the Court and to complete the investigation at the earlier possible time. It is needless to say that the said orders have been passed, when the investigation was still in progress.

5. Being aggrieved by the common order dated 07.05.2014 passed by the X Metropolitan Magistrate, Cyberabad at Malkajgiri, the petitioner/wife preferred Criminal Revision Case vide Crl.R.C.No.61 of 2014 before the III Additional District Judge, Ranga Reddy District.

6. After considering the rival contentions of the parties and material on record, the III Additional District and Sessions Judge, Ranga Reddy, has set aside the orders in Crl.M.P.No.3639 of 2012 and directed the Magistrate to dispose of the matter at an early date within a period of six months. The finding of the III Additional District and Sessions Court was that the petitioner established her case and that the jewellery was seized by the police from the locker of A-4 belongs to the petitioner and she was entitled for interim custody of the same. It is the specific finding of the revision Court that ornaments belong to N.Anusha who is the wife of A-1.

7. Being aggrieved by the said orders, the present Criminal Petition has been filed A-4, from whose locker the jewellery was recovered.

8. Heard the learned counsel for the petitioner, the learned Assistant Public Prosecutor for respondent No.2 and learned counsel appearing for respondent No.1. Perused the entire record.

9. It is the specific contention of the petitioner that during the course of investigation, the police had recovered jewellery from the locker of A-4 under confession-cum-recovery panchnama, but the police did not deposit the said gold ornaments in the Court, for which the defacto complainant and A-1 have filed petitions, seeking a direction to the police to release the case properties in their favour. But the trial Court dismissed both the petitions. The revision court has allowed Crl.M.P.No.3639 of 2012 stating that the 1<sup>st</sup> respondent is entitled for interim custody of the jewellery and she shall produce the said ornaments before the Court as and when necessary.

10. Learned Assistant Public Prosecutor contended that the case property was produced before the Court and it has been marked as material object and it is coming for the evidence of Investigating Officers in this case.

11. Section 452 of Cr.P.C. envisages that:-

“(1) When an inquiry or trial in any Criminal Court is concluded, the Court may make such order as it thinks fit for the disposal, by destruction, confiscation or delivery to any person claiming to be entitle to possession thereof or otherwise, of any property or

document produced before it or in its custody, or regarding which any offence appears to have been committed, or which has been used for the commission of any offence.

(2) An order may be made under sub- section (1) for the delivery of any property to any person claiming to be entitled to the possession thereof, without any condition or on condition that he executes a bond, with or without sureties, to the satisfaction of the Court, engaging to restore such property to the Court if the order made under sub- section (1) is modified or set aside on appeal or revision.

(3) A Court of Session may, instead of itself making an order under sub- section (1), direct the property to be delivered to the Chief Judicial Magistrate, who shall thereupon deal with it in the manner provided in sections 457, 458 and 459.

(4) Except where the property is livestock or is subject to speedy and natural decay, or where a bond has been executed in pursuance of subsection (2), an order made under sub- section (1) shall not be carried out for two months, or when an appeal is presented, until such appeal has been disposed of.

(5) In this section, the term" property" includes, in the case of property regarding which an offence appears to have been committed, not only such property as has been originally in the possession or under the control of any party, but also any property into or for which the same may have been converted or exchanged, and anything acquired by such conversion or exchange, whether immediately or otherwise.”

12. Admittedly, the revision Court has handed over the property as interim custody to the respondent No.1 who is the

wife of A-1. As stated by the learned Assistant Public Prosecutor that the trial is in progress and it is only coming up for evidence of the police officials. Therefore, this Court is of the considered view that the trial Court has to pass appropriate orders strictly following the ingredients under Section 452 of Cr.P.C for disposal of the property, at the conclusion of the trial. Therefore, the trial Court is directed to decide as to whom the jewellery belongs to and to consider the documents filed by either parties in order to decide ownership of gold ornaments and to pass appropriate orders in the main case itself, without being influenced or prejudice by the orders of the Court.

13. With the above observations, this Criminal Petition is disposed of.

Pending miscellaneous applications, if any, shall stand closed.

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**G.ANUPAMA CHAKRAVARTHY, J**

Date: 08.02.2023

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