

**IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

**TUESDAY, THE SIXTH DAY OF FEBRUARY
TWO THOUSAND AND TWENTY FOUR**

**PRESENT
THE HONOURABLE SRI JUSTICE E.V. VENUGOPAL**

CRIMINAL PETITION NO: 215 OF 2013

Between:

Timothy Tajonang Gonmei I.R.P.S., Senior Divisional Personnel Officer, C/o.
D.R.M. Office, Lumding Division, N.F. Railway, Lumding Nagaon district Assam
Pin 782447,

... Petitioner/Accused

AND

1. The State of Andhra Pradesh, Rep., by its Public Prosecutor, High Court of Andhra Pradesh at Hyderabad.
2. Dr. Eunice Lalnunmawii Chawngathu,, W/o. Dr. Timothy T. Gonemei, R/o. 201, Venkata Krupa Apartments, 16, Gagan Mahal, Domalguda, Himayatnagar, Hyderabad 500 029.

... Respondent/Complainant

Petition under Section 482 of Cr.P.C, praying that in the circumstances stated in the affidavit filed in support of the Criminal Petition, the High Court may be pleased to quash the CC.No.53 of 2011 on the file of the Court of the XIII Additional Chief Metropolitan Magistrate Nampally, Hyderabad.

IA NO: 1 OF 2013 (CRL. M.P.No.193 of 2013)

Petition under Section 482 of Cr.P.C praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to grant stay of all further proceedings including the execution of NBW in CC.No.53 of 2011 on the file of XIII Additional Chief Metropolitan Magistrate Nampally, Hyderabad, pending disposal of the quash petition., Pending disposal of CRLP 215 of 2013, on the file of the High Court.

IA NO: 1 OF 2022

Petition under Section 482 of Cr.P.C praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to vacate the ex parte stay dated 10/01/2013 granted in CRL MP NO ' 193 OF 2013 in CRL.P NO.215 OF 2013.

The Petition coming on for hearing, upon perusing the Petition and the affidavit filed in support thereof and upon hearing the arguments of Sri S Ravindranath Advocate for the Petitioner(s), Sri Vizarith Ali, Asst. Public Prosecutor (TG) Advocate for the Respondent no.1

The Court made the following: ORDER

THE HONOURABLE SRI JUSTICE E.V.VENUGOPAL**CRIMINAL PETITION No.215 OF 2013****ORDER:**

The present Criminal Petition is filed seeking to quash the C.C.No.53 of 2011 on the file of the learned XIII Additional Chief Metropolitan Magistrate, Nampally, Hyderabad (for short, "the trial Court").

2. Heard Mr. S.Ravindranath, learned counsel for the petitioner and Mr. Vizarith Ali, learned Assistant Public Prosecutor appearing for respondent No.1/State. Respondent No.2/Party-in-person appeared on-line but her submissions were not audible.

3. The brief facts of the case are that the marriage between petitioner and respondent No.2 was performed on 11.10.2006 at Aizawl, Mizoram, Assam. It is stated that after marriage, the petitioner harassed respondent No.2 for money. When she refused to pay money, on 06.06.2007, the petitioner threw his wife from the matrimonial home and the wife started residing with her parents. Aggrieved thereby, respondent No.2 filed a private complaint, which was taken on file by the trial Court for

the offences punishable under Section 498-A of Indian Penal Code and Sections 4 and 6 of the Dowry Prohibition Act.

4. Learned counsel for the petitioner contended that this Court vide order dated 02.11.2011 in Criminal Petition No.10567 of 2011 directed the learned Magistrate, trial Court to conduct an enquiry under Section 202(1) of Cr.P.C. as amended and to proceed with the case in accordance with law. But the same is not being complied with.

5. Learned counsel for the petitioner submitted that the learned Magistrate ought not to have accepted the protest petition since the police filed the final report as 'lack of evidence', upon examining the independent witnesses. He contended that the matter was listed finally for examination on 25.04.2012 but before conducting such examination, the trial Court issued summons on 21.09.2011.

6. Learned counsel for the petitioner further stated that vide order dated 24.08.2011, the trial Court issued NBW against the petitioner on the basis of the report filed by the *de facto* complainant, though this Court set aside the cognizance vide order dated 02.11.2011 in Criminal Petition No.10567 of 2011. He would further contend that the said allegations, if investigated

further would not withstand the scrutiny of law and seeks to quash the impugned proceedings.

7. Learned Assistant Public Prosecutor, by furnishing the copy of e-Courts proceedings stated that the petitioner approached this Court at a belated stage i.e., after cognizance has been taken by the trial Court, by which time, trial has already commenced in the calender case.

8. Learned Assistant Public Prosecutor further submitted that this Court vide order dated 10.01.2013 granted interim stay of all further proceedings in C.C.No.53 of 2011 on the file of the trial Court. By virtue of the interim order granted by this Court, the matter is being protracted on one pretext or the other. He further stated that only upon conducting the trial, the real truth would be elicited and seeks to dismiss the Criminal Petition.

9. Having regard to the submissions made by both the learned counsel, upon considering the fact that trial has already been commenced before the trial Court and the petitioner has got every opportunity to defend his case by adducing evidence. Hence, this Court is of the opinion that the Criminal Petition is liable to be dismissed.

10. Accordingly, the Criminal Petition is dismissed. The appearance of the petitioner, before the trial Court is dispensed with on all occasions, unless and until required. Needless to mention, the petitioner is at liberty to work out the remedies available under law.

Miscellaneous Petitions, pending if any, shall stand closed.

Sd/- G. SIREESHA
ASSISTANT REGISTRAR

//TRUE COPY//


SECTION OFFICER

To,

1. The XIII Addl. Chief Metropolitan Magistrate, at Nampally, Hyderabad.
2. The Station House Officer, CCS Women Police Station, Hyderabad.
3. One CC to Sri. S Ravindranath Advocate [OPUC].
4. Two CCs to Public Prosecutor, High Court for the State of Telangana. [OUT]
5. Two CD Copies.

YJR/pr

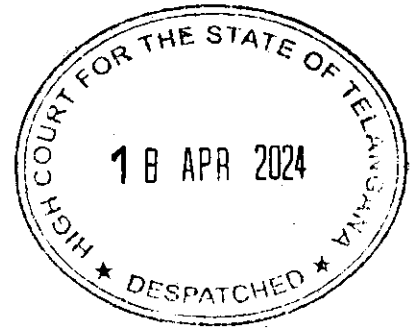


HIGH COURT

DATED: 06/02/2024

ORDER

CRLP.No.215 of 2013



DISMISSING OF THE CRL.P

(8)
1/4/24
H.R.