

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

**FRIDAY, THE TWENTY SIXTH DAY OF SEPTEMBER
TWO THOUSAND AND TWENTY FIVE**

PRESENT

THE HON'BLE SRI JUSTICE J. SREENIVAS RAO

CRIMINAL PETITION NO: 5810 OF 2023

Between:

Rafiuddin Khan, S/o Khaja Moinuddin Khan, Aged about 38 years, Occ: pvt employee at Saudi Arabia, R/o Saudi Arabia, Rep. by his G.P.A. Mr. Khaja Nadeem Khan, S/o Khaja Moinuddin Khan, aged about 32 yrs, Occ: Business, R/o 13-6-434/a/147, Sardar Bagh, Post office Golconda, Langar House, Karwan, Hyderabad.

...Petitioner/A1

AND

1. The State of Telangana, Rep. by its Public Prosecutor, Having office at High Court, Hyderabad.
2. Syed Rayees Ahmed, S/o Late Syed Ibrahim, Aged about 65 yrs, Occ: Pvt employee, R/o Flat No. 4, Building No. 62, Vijay nagar Colony, Hyderabad.

...Respondents

Petition under Section 482 of Cr.P.C praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the High Court may be pleased to call for the entire records relating to Cri.MP.No.1770 of 2023 in CC No.284 of 2018 now CC.1925 of 2024, pending on the file of Learned XV Addl. Chief Metropolitan Magistrate, Nampally, Hyderabad.

I.A. NO: 1 OF 2023

Petition under Section 482 of Cr.P.C praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the High Court may be pleased to stay all further proceedings in C.C. No.284 of 2018 now CC 1925/2024 pending on the file of learned XV Addl. Chief Metropolitan Magistrate, Nampally, Hyderabad, pending quash petition in the interest of justice.

This Petition coming on for hearing, upon perusing the Memorandum of Grounds of Criminal Petition and upon hearing the arguments of Mr. Mohd. Adnan, Advocate for the Petitioner and the Mr. M. Vivekananda Reddy, Assistant Public Prosecutor on behalf of the Respondent No.1 and of Mr. Mirza Nisar Ahmed Baig Advocate for the Respondent No.2

The Court made the following: ORDER

THE HONOURABLE SRI JUSTICE J. SREENIVAS RAO

CRIMINAL PETITION No.5810 of 2023

ORDER:

This Criminal Petition has been filed under Section 482 of the Code of Criminal Procedure, 1973, (for short, 'the Cr.P.C.') aggrieved by the order passed by the learned XIII Chief Metropolitan Magistrate, Mahila Court, Hyderabad, in CrI.M.P.No.1770 of 2023 in C.C.No.284 of 2018, dated 26.04.2023, to the extent of imposing condition of surrender the passport of the petitioner/accused No.1, while recalling Non-Bailable Warrants (N.B.Ws.) pending against him.

2. Heard Mr. Mohd. Adnan, learned counsel for the petitioner/accused No.1, Mr.Mirza Nisar Ahmed Baig, learned counsel for respondent No.1 and Mr. M. Vivekananda Reddy, learned Assistant Public Prosecutor appearing for respondent No.1 State.

3. Learned counsel for the petitioner submitted that the petitioner is accused No.1 in C.C.No.284 of 2018 for the offences under Sections 498-A and 420 of the Indian Penal Code, 1860, and Section 4 of the Dowry Prohibition Act, 1961. The learned Magistrate had issued N.B.Ws. against the

petitioner on 28.02.2023. The petitioner filed Crl.M.P. No.1770 of 2023 seeking to recall the N.B.Ws. issued against him. The learned Magistrate, while allowing the said petition, imposed onerous condition directing the petitioner to surrender his passport before the Court on his arrival. He also submitted that the petitioner has not received the summons in C.C.No.284 of 2018. In the absence of summons, learned Magistrate issued N.B.Ws. against him and the same is contrary to law.

3.1. He further submitted that the petitioner is doing employment in Saudi Arabia and recently he came to India to see his father, who is suffering with ill-health. If the above said condition is not relaxed, the petitioner is unable to travel to Saudi Arabia to do his employment and he will put to great hardship. The petitioner is ready and willing to appear before the learned Magistrate during the course of examination under Section 313 Cr.P.C. and at the time of pronouncement of judgment in C.C.No.284 of 2018. The petitioner is also ready to appear before the learned Magistrate on each and every adjournment through video conference and his counsel will appear on each and every adjournment before the learned

Magistrate to prosecute the proceedings. The petitioner is ready and willing to furnish the sureties and also give an undertaking before the learned Magistrate.

4. *Per contra*, learned counsel for respondent No.2 submitted that the learned Magistrate, while allowing the recall petition *vide* CrI.M.P.No.1770 of 2023, directed the petitioner to appear before the Court within three months i.e., on 26.07.2023 and on his arrival, he shall surrender his passport before the Court. The petitioner has not appeared physically till date and not surrendered his passport before the learned Magistrate, as directed. Hence, the petitioner is not entitled to seek relaxation of the said condition.

4.1. He further submitted that the petitioner has not questioned the issuance of N.B.Ws. issued by the learned Magistrate dated 28.02.2023. On this count also, the petitioner is not entitled to contend in the present criminal petition that issuance of N.B.Ws. against the petitioner is contrary to law. Hence, the criminal petition is liable to be dismissed.

5. During the course of hearing, it is submitted by the learned counsel for respondent No.2 that during pendency of this criminal petition, C.C.No.284 of 2018 was transferred to the Court of XV Additional Chief Metropolitan Magistrate and the same was re-numbered as C.C.No.1925 of 2024.

6. Learned counsel for the petitioner submitted that the petitioner may be permitted to amend the case number and also the court name.

7. To substantial justice to the parties, the petitioner is granted permission to amend the case number and court name.

8. This Court considered the rival submissions made by the respective parties and perused the material available on record. It is not in dispute that the learned Magistrate had issued N.B.Ws. against the petitioner on 28.02.2023 and the petitioner filed petition for recalling of N.B.Ws., *vide* CrI.M.P.No.1770 of 2023, invoking the provisions of Section 70(2) of the Cr.P.C. The learned Magistrate while allowing the petition on 26.04.2023 imposed three conditions and condition No.(i) is that the petitioner shall appear before the

Court within three months i.e., on 26.07.2023 and on his arrival, he shall surrender his passport before this Court.

9. It is also not in dispute that the petitioner has not complied with the above said condition imposed by the learned Magistrate. However, the petitioner approached this Court and filed the present criminal petition questioning the above said condition imposed by the learned Magistrate dated 26.04.2023.

10. Even according to the charge sheet, the Investigating Officer filed charge sheet by recording the statements of LWs.1 to 7 and even according to the parties, C.C.No.2935 of 2024 is coming up for examination of LW.1 and the presence of the petitioner is not very much required at this stage, especially the learned counsel for the petitioner submitted that the petitioner will appear physically during the course of examination under Section 313 of the Cr.P.C. and at the time of pronouncement of the judgment in the said C C.

11. It is pertinent to mention that the petitioner had not questioned the issuance of NBW dated 28.02.2023 against him in the present case. Hence, this Court is not inclined to

deal with the submissions made by the learned counsel for the petitioner that the learned Magistrate in the absence of service of summons to the petitioner, issued N.B.Ws. However, the petitioner filed this criminal petition to the extent of imposing condition of surrender of passport before the learned Magistrate.

12. Taking into consideration the peculiar facts and circumstances of the case, the condition No.(i) imposed by the learned Magistrate in CrI.M.P.No.1770 of 2023 dated 26.04.2023 is relaxed on the following conditions.

- (i) The petitioner/accused No.1 shall execute a personal bond for a sum of Rs.1,00,000/- (Rupees One Lakh only) with two sureties for a like sum each to the satisfaction of the XV Additional Chief Metropolitan Magistrate, Nampally, Hyderabad, within a period of one week from today.
- (ii) The petitioner/accused No.1 shall appear before the learned Magistrate on each and every adjournment through video conference and he shall represent through his counsel before the learned Magistrate.
- (iii) The petitioner/accused No.1 shall file an undertaking/affidavit before the learned Magistrate that he will appear physically at the

time of his examination under Section 313 of the Cr.P.C. and at the time of pronouncement of the judgment in C.C.No.1925 of 2024.

- (iv) In default of any of the above said conditions, the learned Magistrate is entitled to proceed with the matter, in accordance with law.

13. With the above said directions, the Criminal Petition is disposed of.

Miscellaneous applications, pending if any, shall stand closed.

sd/- U SUDHA
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The XV Addl. Chief Metropolitan Magistrate, Nampall, Hyderabad.
2. The Station House Officer, WPS, CCS, Police Station, Hyderabad District.
3. Two CCs to the Public Prosecutor, High Court for the State of Telangana at Hyderabad. [OUT]
4. One CC to Mr. Mohd. Adnan, Advocate [OPUC]
5. One CC to Mr. Mirza Nisar Ahmed Baig, Advocate [OPUC]
6. Two CD Copies

Kam/ABK

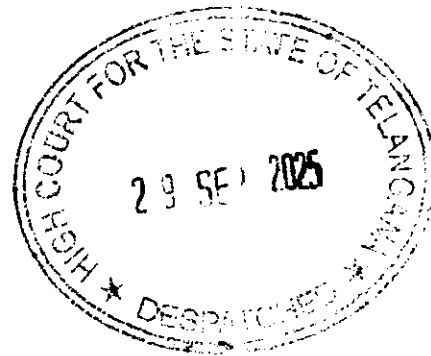
18

HIGH COURT

DATED:26/09/2025

ORDER

CRLP.No.5810 of 2023



**DISPOSING OF THE
CRIMINAL PETITION**

9 copies
by
29/9/25