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2012 IL App (3d) 110204-U

Order filed January 6, 2012

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IN THE  
APPELLATE COURT OF ILLINOIS  
THIRD DISTRICT

A.D., 2012

<i>In re</i> MARRIAGE OF DEEPALAKSHMI )	Appeal from the Circuit Court
MURUGESH, )	of the 12th Judicial Circuit
)	Will County, Illinois
Petitioner-Appellee, )	
)	Appeal No. 3-11-0204
and )	Circuit No. 09-D-452
)	
MURUGESH KASILINGAM, )	Honorable
)	Robert P. Brumund
Respondent-Appellant. )	Judge Presiding

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JUSTICE LYTTON delivered the judgment of the court.  
Justice McDade specially concurred.  
Presiding Justice Schmidt dissented.

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**ORDER**

- ¶ 1 *Held:* Trial court properly enjoined husband from participating in divorce action he instituted in India, where both he and wife reside in Illinois, wife faces criminal prosecution in India, custody issues must be decided in Illinois, and trial court found that husband filed action in India solely to take advantage of India's laws.
- ¶ 2 Petitioner Deepalakshmi Murugesh (Deepa) and Murugesh Kasinlingam (Murugesh) were married in India in 1999 and moved to Illinois soon after. In March 2009, Murugesh filed a petition for dissolution of marriage in India. Two days later, Deepa filed a petition for dissolution of

marriage in Illinois. Thereafter, Deepa filed a petition requesting the Illinois court to restrain and enjoin Murugesh from participating in the Indian divorce proceedings. The trial court granted Deepa's petition. Murugesh appeals. We affirm.

¶ 3 Deepa and Murugesh are citizens of India. In 1997, Murugesh came to the United States. The next year, he started a company in Illinois. Murugesh and Deepa were married in India in January 1999, under the Hindu Marriage Act. The marriage was solemnized in India in August 22, 1999. In September 1999, Deepa moved to Illinois with Murugesh. One year later, Murugesh and Deepa had a child, Sruthi. Sruthi was born in Illinois and has resided in Illinois since her birth.

¶ 4 In 2008 and 2009, Deepa spent extended periods in India, from June to August 2008, and December 2008 to March 2009. According to Murugesh, during this time, Deepa was living with another man, Mohan Kumar, and holding herself out as his wife.

¶ 5 On January 31, 2009, Murugesh's father, A.R. Kasilingam, filed a criminal complaint with the Inspector of Police in India alleging that Deepa had engaged in "illegal intimacy with one Mohan Kumar" and "requested action." Deepa and Kumar were brought to the police station and questioned by police. Deepa's family members arrived at the police station and asked the police inspector not to issue a First Incident Report (FIR) against Deepa. An FIR would allow police to arrest Deepa and bring her before a magistrate court. Murugesh's father agreed not to pursue an FIR against Deepa. Deepa was allowed to leave the police station with her parents on January 31, 2009, but was required to come back the following morning.

¶ 6 On February 1, 2009, Deepa returned to the police station and provided a written response to the complaint filed by Murugesh's father. In her response, Deepa admitted that she and Mohan Kumar "lived together as husband and wife" in India. She further indicated that she planned to

"approach[] the Court for [a] divorce" from Murugesh. Deepa now contends that her written statement was made under duress.

¶ 7 Deepa returned to Illinois on March 10, 2009. On March 12, 2009, Murugesh's father filed another police complaint, alleging that Deepa, along with her mother and father, attempted to assault him at a train station on March 9, 2009.

¶ 8 On March 13, 2009, Murugesh's mother filed a petition with Tamil Nadu State Commission for Women, alleging that Deepa was involved in illegal contact with another man. The Tamil Nadu State Commission for Women requested that the Consulate General of the United States impound Deepa's passport "[a]s a criminal case is pending against \*\*\* Deepalakshmi in Tamil Nadu State Commission for Women for having cheated \*\*\* Murugesh." This case is still pending against Deepa.

¶ 9 As a result of the March 12, 2009, complaint filed by Murugesh's father, Deepa and her parents were charged with a non-bailable offense. Deepa's parents requested conditional bail, which the court granted, requiring them to appear in court every day. Deepa and her parents deny that the incident alleged in the March 12 police complaint ever occurred.

¶ 10 On March 14, 2009, Murugesh filed a petition for dissolution of marriage in India under the Hindu Marriage Act. Two days later, Deepa filed a petition for dissolution of marriage in Will County, Illinois. In April 2009, Murugesh filed a motion to dismiss the Illinois divorce proceeding, arguing that a divorce action was already pending in India.

¶ 11 In January 2010, Deepa requested the India court to dismiss the Indian dissolution proceeding. On April 23, 2010, the Indian trial court denied Deepa's request for dismissal. Deepa appealed.

¶ 12 In June 2010, M.G. Ashok, an attorney for Murugesh's father, provided deposition testimony through Skype in the Illinois divorce proceeding. He testified that in India, Deepa could be charged with cheating for her relationship with Kumar. If convicted, Deepa could face up to two years imprisonment.

¶ 13 On September 3, 2010, the appellate court in India affirmed the trial court's decision denying Deepa's request to dismiss the Indian proceeding. Deepa then appealed to the highest court in India, which refused to hear the case.

¶ 14 On March 2, 2011, the Illinois trial court denied Murugesh's motion to dismiss the Illinois proceeding. In its oral ruling, the court found that Murugesh was engaging in "forum shopping" by filing his action in India so that he could "take advantage of the Hindu Marriage Act." The court stated that "the only reason the respondent wants this case heard in India is because of the wife's alleged marital infidelity and the consequences of the same under the Hindu Marriage Act." The court concluded that although both India and Illinois had jurisdiction over the action, most, "if not all of the evidence is located in this jurisdiction."

¶ 15 Neither Deepa nor Murugesh have returned to India since Murugesh instituted the divorce action there. They have never personally appeared in court in India but have been represented by attorneys and their fathers, as their attorneys-in-fact. Murugesh's father lives in the city where Murugesh filed for divorce. Deepa's father lives in a city nearly 200 miles away. It takes him five to seven hours to travel that distance by car or train.

¶ 16 On March 16, 2011, Murugesh filed a motion requesting the Illinois trial court to stay the Illinois proceedings and certify for appellate review the question of the propriety of the trial court's denial of his motion to dismiss. On March 21, 2011, Deepa filed a "Petition to Enjoin Respondent

from Participating in the India Divorce Proceeding" in Illinois. In her petition, Deepa asserted that she would "suffer irreparable harm" and be placed "in a practically impossible position of defending herself in the India proceeding" if the court did not grant the injunction she requested.

¶ 17 On March 22, 2011, the trial court granted Murugesh's motion, staying the Illinois proceeding and certifying a question for appeal. See *In re Marriage of Murugesh and Kasilingam*, No. 3-11-0204. The court also granted Deepa's petition to enjoin Murugesh from participating in the Indian divorce action.

¶ 18

#### ANALYSIS

¶ 19 A court has the power to restrain a person over whom it has jurisdiction from proceeding with suit in a foreign state. *Pfaff v. Chrysler Corp.*, 155 Ill. 2d 35, 43 (1992). A temporary injunction may be granted to restrain Illinois residents from proceeding with an action for divorce outside of the state. See *Hershenson v. Hershenson*, 45 Ill. App. 2d 173 (1963); *Russell v. Russell*, 329 Ill. App 580 (1946); *Kahn v. Kahn*, 325 Ill. App. 137 (1945).

¶ 20 The issuance of a temporary injunction enjoining a proceeding in a foreign jurisdiction is deemed an extraordinary remedy, and will be exercised sparingly. *Kleinschmidt v. Kleinschmidt*, 343 Ill. App. 539, 547 (1951). An injunction restraining a foreign action is appropriate "only when prosecution of the foreign action would result in fraud or gross wrong or oppression, or when a clear equity is presented which requires such restraint to prevent a manifest wrong and injustice." *Pfaff*, 155 Ill. 2d at 50.

¶ 21 What constitutes a wrong and injustice requiring the court's interposition depends on the particular facts of the case. *Pfaff*, 155 Ill. 2d at 58. There is no general rule as to what circumstance constitutes a proper case for injunctive relief. *Id.* The granting of an injunction will depend on

specific circumstances as to whether equitable considerations in favor of granting the injunction outweigh the legal right of the party who instituted the foreign action. *Id.*

¶ 22 That a foreign action may be vexatious and harassing is not by itself sufficient to justify an injunction, but it is a consideration in the overriding analysis. *Pfaff*, 155 Ill. 2d at 50. "[W]here complete relief can be had in the local forum, the institution of foreign proceedings will be regarded as vexatious and harassing of the opposite party." *John Crane, Inc. v. Admiral Insurance Co.*, 391 Ill. App. 3d 693, 700 (2009).

¶ 23 A foreign action should not be enjoined merely because of inconvenience or simultaneous, duplicative litigation, or where a litigant simply wishes to avail himself of more favorable law. *Pfaff*, 155 Ill. 2d at 60. However, "the prosecution of a foreign action may be enjoined where such actions are brought to avoid or defeat the operation of the laws of the state where both parties to the suit reside." *Id.* (citing *Illinois Life Insurance Co. v. Prentiss*, 277 Ill. 383, 391 (1917)). "Illinois has a 'significant and substantial' interest in resolving cases between Illinois residents." *Whirlpool Corp. v. Certain Underwriters at Lloyd's London*, 295 Ill. App. 3d 828, 838 (1998) (quoting *Kwasniewski v. Schaid*, 153 Ill. 2d 550, 556 (1992)).

¶ 24 A trial court's decision to enjoin a foreign action will not be disturbed absent an abuse of discretion. *John Crane, Inc.*, 391 Ill. App. 3d at 700. Under the abuse of discretion standard, we may not substitute our judgment for that of the trial court. *Id.* We will only reverse if no reasonable person could adopt the view taken by the trial court. *Id.*

¶ 25 The trial court's decision in this case was not an abuse of discretion for four reasons. First, the trial court found that Murugesh filed his divorce action in India so that he could "take advantage of the Hindu Marriage Act," instead of the laws of Illinois, where he and Deepa have lived for over

12 years. An injunction is proper when a party sues in a foreign jurisdiction for the purpose of evading the law of the parties' residence and taking advantage of a materially different law of the foreign jurisdiction. *Pfaff*, 155 Ill. 2d at 60; *Weaver v. Alabama Great Southern Railroad Co.*, 76 So. 364, 366 (Ala. 1917). "This is founded on the just conception that there is essential injustice in the enforcement of rights and duties according to any other standard than that fixed by the law of the place where the parties reside \*\*\*." *Weaver*, 76 So. at 366. Since, as the trial court found, Murugesh brought his action in India to avoid the operation of Illinois' laws and to take advantage of India's laws, the trial court's decision to enjoin Murugesh from proceeding in his Indian divorce action was reasonable. See *Pfaff*, 155 Ill. 2d at 60.

¶ 26 Second, it would be unjust and oppressive to require Deepa to participate in the Indian divorce action. In India, Deepa has criminal charges pending against her for having a relationship with another man. If she returns to India, she faces possible arrest, prosecution, and imprisonment. Her passport could be confiscated, making her unable to return to the United States, where her young daughter lives as a citizen. Because the pending charges against Deepa prevent her from returning to India, Deepa cannot personally participate in the India divorce action.

¶ 27 Nevertheless, Murugesh argues that the parties can participate in the Indian action through affidavits and their fathers as surrogates. The record establishes that Deepa's father must travel five to seven hours every time he appears in court on Deepa's behalf. Additionally, Deepa must bear the expense of legal representation in India, as well as in Illinois. Requiring a party to litigate the same issues in a foreign action "would place an unfair hurdle in petitioner's way as she sought to adjudicate her rights arising from the marriage." *Brown v. Brown*, 120 R.I. 340, 346 (1978); see also *Russell*, 329 Ill. App. at 587 (enjoining husband from filing for divorce outside of Illinois, the

parties' state of residence); *Kahn*, 325 Ill. App. 3d at 884 (same). Placing such a burden on Deepa and her family is oppressive. The action can proceed in Illinois, where both Deepa and Murugesch live and can appear in court personally. See *John Crane, Inc.*, 391 Ill. App. 3d at 703 (2009) (finding the institution of actions in other forums harassing and oppressive).

¶ 28 Third, a manifest injustice would occur if a dispute involving Illinois residents was decided in a foreign jurisdiction that cannot provide complete relief to the parties. Deepa and Murugesch have lived exclusively in Illinois for almost all of their married lives. As a result, Illinois has a "significant and substantial" interest in resolving this divorce action. See *Whirlpool Corp.*, 295 Ill. App. 3d at 838. Furthermore, the parties' only child, Sruthi, was born in Illinois, has lived exclusively in Illinois, and is a United States citizen. While India has jurisdiction over Murugesch, India has no jurisdiction over Sruthi or any custody issues related to her. See 750 ILCS 36/201 (West 2008). As Sruthi's home state, only Illinois has jurisdiction to make custody decisions. See 750 ILCS 36/201(1) (West 2008). Since complete resolution of all issues related to the parties' divorce can only be accomplished in Illinois, allowing the Indian divorce action to proceed would be vexatious and harassing. See *John Crane, Inc.*, 391 Ill. App. 3d at 700.

¶ 29 Fourth, an injunction is warranted to prevent a multiplicity of suits, the possibility of conflicting decisions, and further complication, litigation and expense. See *Brown*, 120 R.I. at 346; *Huff v. Huff*, 69 N.C. App. 447, 450 (1984). In *Huff*, the North Carolina appellate court affirmed an injunction restraining a Florida divorce action since another divorce action between the parties had been instituted in North Carolina, where the parties resided. The court explained:

"Issues identical or nearly identical to those raised here would be litigated, and the rights of the parties would be determined, pursuant to laws and procedures different

from those of the state in which the parties resided when this action was instituted.

Such dual litigation could result in similar or identical issues being resolved in a contradictory manner, thereby leading to further conflict, further litigation and additional expense \*\*\*." *Huff*, 69 N.C. App. at 450.

¶ 30 Similarly, in *Brown*, the Rhode Island supreme court found that an injunction preventing a husband from instituting a divorce action outside of Rhode Island, where the parties resided, was warranted to prevent "a multiplicity of suits," "the possibility of conflicting decisions" and "to prevent respondent from confusing and complicating [Rhode Island's] determination of \*\*\* issues." *Brown*, 120 R.I. at 346. The court explained that Rhode Island was best able to decide the divorce action because it had both parties before it and could deal with all issues, including alimony and child support, that could arise in the divorce action. *Id.* The court found that an injunction was proper "in order to decree complete and final justice between the parties in the matters before it." *Id.*

¶ 31 Here, Illinois, unlike India, has both parties before it and can provide a complete and final resolution of the issues. The parties are residents of Illinois, and its laws should determine the rights and duties of the parties in the divorce action. Allowing the Indian divorce action to proceed could result in identical issues being resolved in a contradictory manner, leading to further litigation and additional expense to the parties. See *Huff*, 69 N.C. App. at 450. Because the Indian divorce action will serve only to complicate the resolution of the parties' divorce, an injunction was warranted. See *Brown*, 120 R.I. at 346.

¶ 32 In this case, the trial court found that equitable considerations outweigh Murugesh's right to file suit wherever he desires, particularly since Murugesh filed for divorce in India to avoid Illinois'

jurisdiction and "take advantage" of India's laws. Under these particular circumstances, the trial court's decision to enjoin Murugesh from proceeding with his India divorce action was not an abuse of discretion.

¶ 33

#### CONCLUSION

¶ 34 The order of the circuit court of Will County is affirmed.

¶ 35 Affirmed.

¶ 36 JUSTICE McDADE, specially concurring:

¶ 37 The majority concludes that the circuit court did not abuse its discretion when it enjoined Murugesh from further participating in the divorce action that he filed in the parties' native country of India because: (1) Murugesh filed the divorce action in India to "take advantage of the Hindu Marriage Act"; (2) it would be unjust and oppressive to require Deepa to participate in the India divorce action because she has pending criminal charges in India stemming from an adulterous relationship in which she partook during her marriage to Murugesh, and because it causes her family a great burden to appear in the India court on her behalf; (3) only Illinois has jurisdiction over Sruthi and any custody issues related to her; and (4) permitting the India action to proceed at this point may result in a multiplicity of suits, the possibility of conflicting decisions, and further complication, litigation and expense. Although the majority raises a number of other concerns, I write separately because I believe that the only proper basis for the trial court to have enjoined Murugesh from further participation in the India divorce action at this point is the fact that Illinois has jurisdiction over Sruthi and any custody issues related to her.

¶ 38 I note the following: the record indicates that Sruthi is a citizen of the United States, and she holds no other form of citizenship; the record further indicates that Sruthi has attended school in Illinois for her entire life, and also that all of her doctors, dentists, tutors, and all of her friends are located in Illinois. Additionally, the trial court stayed the proceedings in the Will County circuit court, as well as the proceedings in India, pending the resolution of a question certified for appeal. I finally add that the proceedings in India were set to conclude by May 2011.

¶ 39 Pursuant to section 201 of the Uniform Child Custody Jurisdiction and Enforcement Act (the Act), an Illinois court has jurisdiction to make the initial custody determination of a child if, among other things, Illinois is the home state of the child on the date of the commencement of the proceeding. 750 ILCS 36/201(a) (West 2008). The Act defines "[h]ome state" as "the state in which a child lived with a parent \*\*\* for at least six consecutive months immediately before the commencement of a child-custody proceeding." 750 ILCS 36/102(7) (West 2008). The Act further defines "[i]nitial determination" as "the first child-custody determination concerning a particular child." 750 ILCS 36/102(8) (West 2008). Under the terms of the Act, once an Illinois court makes a child-custody determination under section 201, it "has exclusive, continuing jurisdiction over the determination until "neither the child nor the parents have a "significant connection" with Illinois such that substantial evidence of the child's care, protection training, and personal relationships are no longer available in Illinois; or an Illinois court, or a court of another state, concludes that the child and the parents do not "presently reside" in Illinois. 750 ILCS 36/202 (West 2008).

¶ 40 Here, Illinois is Sruthi's home state, as the record indicates that she was born here, she

has lived here her entire life, and more importantly, she resided in Illinois in the six months prior to when Deepa filed her petition for dissolution of marriage. Consequently, because Illinois is Sruthi's home state, the Will County circuit court has jurisdiction to make the initial child custody determination with respect to Sruthi. Since Will County circuit court has jurisdiction to make the initial custody determination of Sruthi, it retains exclusive jurisdiction over her until the time that she and her parents cease to have a significant connection with Illinois, or another court determines that Sruthi and her parents no longer presently reside in Illinois. As a result, the circuit court's determination to enjoin Murugesh from participating in the India divorce proceeding was not an abuse of discretion, as the trial court must make the initial custody determination of Sruthi.

¶ 41 We note that under the Act, we must recognize and enforce "a child-custody determination made in a foreign country under factual circumstances in substantial conformity with the jurisdictional standards of [the] Act." 750 ILCS 36/105 (West 2008). "The reference to 'factual circumstances' in section 105 of the [Act] merely means that '[c]ustody determinations of other countries will be enforced if the facts of the case indicate that jurisdiction was in substantial compliance with the requirements of this Act.'" *In re Marriage of Akula*, 404 Ill. App. 3d 350, 361-62 (2010), quoting 9 U.L.A. § 105, Comment, at 662 (1999). Illinois courts have previously recognized their own lack of jurisdiction over a custody matter, and, in doing so, recognized the custody determination of a foreign country. See *In re Marriage of Silvestri-Gagliardini*, 186 Ill. App. 3d 46 (1989) (where both parents had a significant connection with Italy, and substantial evidence concerning the child's support, education, medical care, housing,

and personal relationships was located in Italy, the trial court properly recognized that it was in the child's best interest for Italy to recognize jurisdiction over him and thus, it properly enforced the judgment concerning the minor that was entered by the court in Italy). Here, however, Murugesh has not shown that the court in India would have jurisdiction over Sruthi in substantial compliance with the requirements of the Act.

¶ 42 Therefore, in light of these facts and the law by which this court is bound, the trial court has jurisdiction to make the initial custody determination of Sruthi, and thus, it has exclusive jurisdiction over her. The trial court properly enjoined Murugesh from further participation in the India divorce action.

¶ 43 PRESIDING JUSTICE SCHMIDT, dissenting:

¶ 44 It is undisputed that an injunction prohibiting someone from participating in a foreign action is an extraordinary remedy and can *only* issue to prevent a gross wrong or injustice. *Royal League v. Kavanagh*, 233 Ill. 175 (1908); *Illinois Life Insurance Co., v. Prentiss*, 277 Ill. 383 (1917); *Pfaff v. Chrysler Corp.*, 155 Ill 2d 35, 50 (1992) *overruled on other grounds*, *ABN AMRO Mortgage Group, Inc. v. McGahan*, 237 Ill. 2d 526 (2010); *Lowe v. Norfolk & W. Ry. Co.*, 96 Ill. App. 3d 637 (1981); *Kahn v. Kahn*, 325 Ill. App. 137 (1945); *Catherwood. v. Hokanson*, 201 Ill. App. 462 (1916). The special concurrence cites cases on enforcement of judgments, none of which relate to the legal standard for enjoining one from participating in foreign litigation.

¶ 45 Justice Lytton asserts, "Since, as the trial court found, Murugesh brought his action in India to avoid the operation of Illinois' laws and to take advantage of India's laws, the trial court's

decision to enjoin Murugesh from proceeding in his Indian divorce action was reasonable." *Supra* ¶ 25. To support his contention, Justice Lytton cites *Pfaff*, ignoring the *Pfaff* court's discussion that "[i]t is not inequitable for a party to prosecute a legal demand against another in any forum that will take legal jurisdiction of the case, merely because that forum will afford him a better remedy than that of his domicile." *Pfaff*, 155 Ill. 2d at 58 (*overruled on other grounds by ABN AMRO Mortgage Group, Inc. v. McGahan*, 237 Ill. 2d 526 (2010)) (citing *Royal League*, 233 Ill. at 183). See also *Kahn*, 325 Ill. App. at 879; *Thorndike v. Thorndike*, 142 Ill. 450 (1892); *Kleinschmidt v. Kleinschmidt*, 343 Ill. App. 539 (1951); *Chicago & Eastern Illinois R.R. Co. v. Reserve Insurance Co.*, 59 Ill. App. 3d 206 (1978); *Wabash Ry. Co. v. Lindsey*, 269 Ill. App. 152 (1933); *American Re-Insurance Co. v. MGIC Investment Corp.*, 73 Ill. App. 3d 316 (1979). It is clearly improper to consider the fact that India's courts may afford Murugesh a better remedy than Illinois as a basis to issue the injunction.

¶ 46 Justice Lytton further notes that India is an inconvenient forum to litigate the divorce. *Supra* ¶ 27. This, too, is an improper basis to enjoin a litigant from participating in foreign litigation.

¶ 47 In *Prentiss*, the circuit court issued an injunction "forever restraining" James Prentiss from instituting suit against Illinois Life Insurance Company (Illinois Life) in the state of Missouri. *Prentiss*, 277 Ill. at 384. Prentiss wanted to institute suit in Missouri to deprive Illinois Life "of the right of trial by jury as guaranteed" under the Illinois Constitution. *Id.* Unlike the requirement in Illinois that jury verdicts be unanimous, Prentiss sought to take advantage of Missouri's law at the time, which allowed 9 of 12 jurors to render a verdict and judgment. *Id.* While Illinois Life did business in Missouri, no witnesses nor any other party to

the suit had contacts with the state of Missouri. *Id.*

¶ 48 Nevertheless, our supreme court found it improper to enjoin Prentiss from bringing his suit in Missouri. *Id.* at 388. In doing so, it stated, "That it may be inconvenient for appellee to go to a foreign state to try the suit, or that the maintenance of two suits will cause double litigation and added expense, is insufficient cause for an injunction against prosecuting the suit proposed to be brought in the state of Missouri and does not justify any interference by a court of equity." *Id.* The *Prentiss* court further noted that Illinois Life was "simply complaining here that, if it is compelled to defend in the state of Missouri, it will not be entitled to the same procedure in the trial there which is followed in the courts of this state. This is not depriving it of any substantial right that would result in wrong or oppression." *Id.* at 391. In the matter at hand, the inconvenience to the parties is no more a reason to issue an injunction than the fact that a foreign jurisdiction may afford a remedy different than is available in Illinois.

¶ 49 The crux of Justice Lytton's argument is that it would be unjust and oppressive to require Deepa to participate in India's divorce action since she has criminal charges pending against her there. *Supra* ¶ 26. Adultery is a crime in Illinois (720 ILCS 5/11-35 (West 2010)) punishable by up to 364 days imprisonment. 730 ILCS 5/5-4.5-55(West 2010). It is also a crime in other states such as New York (New York Penal Law. Sec. 255.17 (McKinney, 2008)) and Minnesota. Minn. Stat. Sec. 609.36 (2011). Certainly, fraud, oppression, gross wrong or injustice cannot flow from the fact that an Illinois resident might be subject to criminal prosecution in New York or Minnesota. The same is no less true simply because the criminal prosecution is pending in a foreign country.

¶ 50 Deepa and Murugesh are citizens of India. They were married in India under the Hindu

Marriage Act of 1955. Following alleged infidelity by Deepa (which is also alleged to have occurred in India), Murugesh initiated divorce proceedings in their homeland. Our task is not to determine whether we agree with or disagree with the laws of India, but to determine whether fraud, oppression or a gross wrong would occur if Murugesh continued prosecuting his divorce petition in India. Deepa acknowledges the petition simply seeks, at this point, to terminate their marriage for grounds which also happen to be a basis to terminate a marriage in Illinois: adultery. 750 ILCS 5/401(a)(1) (West 2010).

¶ 51 I am aware of no case which holds it is proper for an Illinois court of equity to enjoin a party from participating in a proceeding in a foreign jurisdiction on the basis that another party to that proceeding is subject to arrest in the foreign jurisdiction. More importantly, I can find no case which holds such participation will result in a gross wrong or injustice. To do so, we would need to find India's laws unjust. I would not go there. As such, I find that trial court abused its discretion in issuing the injunction prohibiting Murugesh from litigating his claims in India. I, therefore, respectfully dissent.