

HON'BLE SRI JUSTICE G. KRISHNA MOHAN REDDY

Crl.P.No.48 of 2012

ORDER:

This Criminal Petition is filed under Section 482 Cr.P.C. to quash order dated 12-12-2011 passed in Crl.M.P.No.3533 of 2009 in C.C.No.303 of 2005 on the file of the Court of I Additional Judicial Magistrate, Peddapuram, registered for offence punishable under Section 494 read with 109 IPC.

2. Whereas the petitioner herein is the complainant, the respondents 2 and 3 herein are A1 and A2 in the case. The respondents 4 to 34 are sought to be impleaded as A3 to A33 in the criminal case by the complainant in the petition.

3. It is necessary to note the version of the complainant. It is as follows:

The complainant is the legally wedded wife of A-1. The marriage between the complainant and A-1 took place on 01-03-1994 at Vadlamuru Village, Peddapuram Mandal, East Godavari District. The complainant came to know that A-1 got married to A2 with the encouragement of the respondents 4 to 34 herein, though the marriage between A1 and the complainant was subsisting. It is alleged that the respondents 4 to 34 are mainly responsible for performing the marriage and as such, they are also liable for punishment accordingly. It is claimed that in fact, no eye witness to the so called second marriage was examined by the court below at the time of inception and only on the basis of the sworn statement of the complainant adding of the respondents 4 to 34 herein as A3 to A33 in the case was sought for. The court below dismissed the plea of the complainant to add the respondents 4 to 34 on the same grounds.

4. Learned counsel for the complainant contends that the sworn statement of the complainant is sufficient to add the respondents 4 to 34 as the accused in the criminal case.

5. In order to register a case against any body in respect of a

criminal charge, there should be clear material to that effect. The sworn statement of the complainant so far as the involvement of respondents 4 to 34 is concerned, is only hear say on the basis of which the cognizance of the case could not have been taken. Hence, I see no infirmity in the order passed by the court below excluding the respondents 4 to 34 from the purview of cognizance of the case.

6. However, the learned counsel for the complainant has also submitted that in the circumstances of the case, the Court below may be permitted to examine witnesses for the second marriage to take necessary measures about the implication of the respondents 4 to 34 as the accused in the case.

7. It is necessary to see that justice is done to the complainant. If the respondents 4 to 34 are responsible for conducting the second marriage, they may be impleaded and prosecuted subject to placing sufficient material in that context. So, it is just and reasonable to accept the plea of the learned counsel for the complainant

8. In the result, the Criminal Petition is dismissed subject to the observation that the court below shall give an opportunity to the complainant to examine eye witnesses to the marriage, who would have seen the second marriage, to examine the question of adding the respondents 4 to 34 as the accused in the criminal case as per law. The learned Magistrate has to deal with the matter as per law independently.

G. KRISHNA MOHAN REDDY, J

Date: 28-09-2012

Prv