
(2000) 02 AP CK 0020
In the Andhra Pradesh High Court
Case No : Criminal P. No. 479 of 2000

S. Rama Vijaya Lakshmi

APPELLANT

Vs

State of A.P.

RESPONDENT

Date of Decision : 11-02-2000

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Dowry Prohibition Act, 1961 — Section 4, 6
Penal Code, 1860 (IPC) — Section 406, 494, 498A

Citation : (2000) 1 ALD(Cri) 498 : (2000) CriLJ 2122 : (2001) 1 DMC 117

Hon'ble Judges : Vaman Rao, J

Bench : Single Bench

Advocate : K. Chatinya, for the Appellant; Public Prosecutor, for the Respondent

Final Decision : Allowed

Judgement

Vaman Rao, J.—This petition u/s 482 Cr.P.C seeks quashing of proceedings in CC.No.136 of 1999 on the file of XXII Metropolitan Magistrate - cum - Mahila Court at Hyderabad in which the petitioner-accused No.2 along with other accused faces charges under Sections 498A. 494 and 406 I.P.C and Sections 4 and 6 of Dowry Prohibition Act.

2. The petitioner herein is alleged to be the women with whom accused No.1 had contracted second marriage while his marriage with the defacto complainant was still subsisting and thus she committed the offence u/s 494 IPC. A reading of the charge sheet would show that she is also sought to be fasten with liability u/s 498A and 406 IPC.

3. The contention of the learned counsel for the petitioner is that offences u/s 498A and 406 IPC can by no stretch of imagination can be attributed to the petitioner herein. In regard to the offence u/s 494 IPC, the learned counsel for the petitioner contends that there is absolutely no material to show that the petitioner had married the accused No.1 with the knowledge that he was already married the defacto complainant and as such the proceedings in CC.No.136 1999

against the petitioner are liable to be quashed. The learned Public Prosecutor raises a preliminary objection that this petition is not maintainable inasmuch as the petitioner has moved the learned XXII Metropolitan Magistrate with an application for discharging the petitioner herein and that the learned Magistrate having dismissed the application the petitioner ought to have approached the Sessions Judge in revision inasmuch as she has not done so this petition cannot be maintained. I do not think this contention has any substance. The petitioner seeks quashing of the proceedings against her on the ground that the material placed by the prosecution before the Court does not make out any offence against the petitioner herein. Mere fact that the petitioner had given an application before the trial Court for discharging her on the same grounds on which the present petition is filed, does not debar him from approaching this Court u/s 482 Cr.P.C. It is fairly conceded by the learned Public Prosecutor that as far as offence u/s 498 and 406 IPC are concerned there is nothing to connect the petitioner with this alleged offence. In regard to the offence u/s 494 IPC the only ground on which the petitioner could not have been charged for this offence would be on the ground that she abetted the commission of the said offence on contracting second marriage with the accused No.1 while his marriage with the first wife was subsisting. The charge sheet and the depositions of witnesses on the basis on which the charge sheet is based do not seem to have anything to suggest that the petitioner had the knowledge that A-1-the husband was already married when the marriage of A-1 and the petitioner was performed. On the other hand, the statements of the defacto complainant, brother of the defacto complainant and her father would show that when they approached the petitioner after her marriage with accused NO.1, the petitioner represented to them that she had absolutely no knowledge that A-1 was already married to the defacto complainant. In view of these alleged denial the prosecution has not collected any material during investigation to suggest otherwise namely that the petitioner herein had knowledge of A-1's earlier marriage. In the absence of such material, it is not possible to fasten a criminal liability for the offence u/s 494 IPC against the petitioner. In these circumstances, it will be abuse of the process of law if the petitioner is made to undergo ordeal of trial along with the other accused.

4. In the result, this petition is allowed and the proceedings in CC/.No.136 of 1999 on the file of XXII Metropolitan Magistrate-cum-Mahila Court, Hyderabad as far as the petitioner-A-2 is concerned shall stand quashed.