
(1990) 07 AP CK 0009

In the Andhra Pradesh High Court

Case No : Criminal Petition No. 1075 of 1990

Tekumalla Muneiah and Others

APPELLANT

Vs

Chittari Babunuri Ammanamma and Another

RESPONDENT

Date of Decision : 15-07-1990

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 182(2)
Penal Code, 1860 (IPC) — Section 494, 495

Citation : (1990) 2 ALT 710 : (1991) 1 APLJ 197 : (1991) CriLJ 548 : (1991) 1 DMC 379

Hon'ble Judges : Bhaskara Rao, J

Bench : Single Bench

Advocate : C.P. Sarathy, for the Appellant;

Judgement

1. This is a petition to quash the order dated 21-11-1989 passed in CrI.M.P. No. 2610 of 1989 in C.C. No. 35 of 1987 on the file of the IInd Addl. Judicial First Class Magistrate, Nellore, as confirmed by the Sessions Judge, Nellore, by his order dated 18-1-1990 in CrI.R.P. (C.F. No. 1656/89).

2. The petitioners herein challenge the order of the Court below refusing to quash the proceedings on the ground that the trial Court at Nellore has no jurisdiction.

3. The facts of the case are :- First respondent herein is the first wife of petitioner No. 1, and as the Ist petitioner married another wife, she filed a complaint in the Court of the IInd Addl. Judicial Magistrate of Ist Class, Nellore under S. 494, I.P.C for bigamy. The only ground raised by the learned Counsel for the petitioners is that the first respondent-wife was residing at Nellore even earlier to the alleged second marriage, and therefore, the Court at Nellore has no jurisdiction as per S. 182(2), Cr.P.C. to decide that contention, it is relevant to refer to Section 182(2), Cr.P.C. which reads as follows :-

"182(2). Any offence punishable under S. 494 or S. 495 of the I.P.C. may be

enquired into or tried by a Court within whose local jurisdiction the offence was committed or the offender last resided with his or her spouse by the first marriage, or the wife by the first marriage has taken up permanent residence after the commission of the offence."

4. As per the above section, it is clear that the first wife can file a complaint at the place where she has taken up a permanent residence after the commission of the offence, if the first wife takes up a permanent residence, she can file a petition in the Court which has got jurisdiction over the area in which she resides. Where the first wife has been residing permanently in a particular place earlier to the commission of the offence, and continues to reside in that place even after the commission of the offence, it can be said that she is residing in that place even after the commission of the offence. Therefore, the Court of that place has got jurisdiction. Merely because the section refers to the place where the first wife takes a permanent residence after the commission of the offence, it cannot be said that the wife who was living at that place earlier to the commission of the offence and continues to do so even after the commission of the offence, is not residing at that place after the commission of the offence. The section must be interpreted in accord with the intention of the Parliament. The incorporation of the clause "or the wife by the first marriage has taken up permanent residence after the commission of the offence" in the section is mainly to facilitate the first wife to file a complaint at the place where she permanently resides after the commission of the offence. I accordingly see no force in the submission of the learned Counsel and hold that the first wife who was living at a particular place earlier to the commission of the offence and continues there must be deemed to have taken permanent residence at that place after the commission of the offence in terms of S. 182(2), Cr.P.C. and that the Court having territorial jurisdiction over that place, namely Nellore in the present case, can entertain the complaint.

5. The criminal petition is accordingly dismissed.

6. Petition dismissed.