

THE HON'BLE SRI JUSTICE M.S.K.JAISWAL

CRIMINAL REVISION CASE No.1167 of 2008

ORDER:

The case of the petitioner is that she was married to the 1st respondent on 11.12.1998 and that the respondent divorced her and failed to return the Jahez articles, better and fare provision etc. The petitioner filed MC No.20 of 2003 on the file of the Court of the XIII Addl.Chief Metropolitan Magistrate, Hyderabad and the learned trial Court by its order dated 21.02.2008 allowed the M.C. and directed the respondent to pay Rs.86,250/- towards Jahez and jewellery, Rs.60,000/- towards better and fare provision, Rs.6,000/- towards jummagi expenses.

Aggrieved by the said order, the 1st respondent preferred RP No.48 of 2008 before the court of V Additional Metropolitan Sessions Judge, Mahila Court, Hyderabad and the lower appellate Court by its order dated 14.07.2008 has set aside the order of the trial Court holding that the petitioner is not entitled for the relief insofar as her marriage with the 1st respondent is concerned. The main ground on which the relief was denied to the petitioner was that the petitioner was already got married to one Mohd.Ateeq and by suppressing the said fact and during the subsistence of the said marriage, the petitioner got married to the 1st respondent on 11.12.1998 and hence her marriage with the 1st respondent on 11.12.1998 turns to be a void marriage.

The contention of the petitioner is that no doubt the petitioner married one Mohd.Ateeq in the year 1996 but on 25.08.1996 she obtained divorce from the said Mohd.Ateeq and also produced divorce certificate from the Khaji, which is Ex.P5, and also video cassette Ex.P7 in proof of divorce, and therefore, marriage with Mohd.Ateeq

was not subsisting as on the date of marriage with the 1st respondent. Learned counsel for the petitioner therefore submits that the lower appellate Court did not take into consideration those material documents Exs.P5 and P7 while setting aside the order passed by the trial Court.

It is manifest from the above that the appellate Court has set aside the order of the trial Court without verifying the material documents Exs.P5 & P7. These material documents, according to the petitioner, clearly show that when she married the 1st respondent on 11.12.1998, her previous marriage with Mohd.Ateeq was not subsisting.

In that view of the matter, I feel that it is a fit case to remand back the matter to the Court below for fresh disposal of R.P.No.48/2008. Accordingly, the Criminal Revision Case is disposed of. The matter is remanded back to the Court below with a direction to dispose of the R.P.No.48/2008 afresh after affording an opportunity of being heard to both parties and after considering the material documents that are produced by either side, in accordance with law, within a period of 3 (three) months from the date of receipt of a copy of this order.

Pending miscellaneous applications, if any, shall stand closed in consequence.

M.S.K.JAISWAL,J

Date: 07.01.2016
Dsr