

THE HON'BLE SRI JUSTICE RAJA ELANGO

Criminal Petition No.2438 of 2016

ORDER:

This Criminal Petition is filed under Section 482 Cr.P.C. seeking to quash proceedings initiated against the petitioner/accused in Crime No.185 of 2015 of Atmakur Police Station, Kurnool District, registered for the offences punishable under Sections 420 and 494 IPC.

Heard the learned counsel for the petitioner and the learned Public Prosecutor.

The main grievance of the petitioner/accused is that a similar complaint was lodged in the year 2010 against him on the same set of facts except the allegation of the marriage with another lady while the marriage with the de facto complainant was in subsistence and that the trial Court, after a full-fledged trial acquitted the petitioner/accused observing that the marriage of the 2nd respondent/de facto complainant with the petitioner/accused was not established and the said judgment became final as no appeal was preferred against it. It is the further case of the petitioner that since the said case was ended in acquittal, on the same set of facts, no second complaint is maintainable and that the present complaint is lodged on the same set of facts in order to harass the petitioner, and hence, continuation of proceedings in the present case may be quashed.

A bare perusal of the material on record would reveal that in C.C.No.281 of 2011, the petitioner/accused faced the trial of the offences punishable under Section 498 A and 495 IPC and the trial Court, after a full-fledged trial, found the accused not guilty of the

offences alleged and acquitted him, holding that the marriage of the 2nd respondent/de facto complainant with the petitioner/accused was not proved, and the said finding is neither challenged nor appealed and the same became final.

Even if the allegations in the present complaint are taken as true and correct at their face value and accepted in its entirety, the same does not constitute any different offences as those allegations arose out of same set of facts, as stated in C.C.No.281 of 2011, except the allegation of bigamous marriage with another lady while the marriage with the de facto complainant was in subsistence. This Court is of the view that on similar set of facts, two complaints cannot be sustained in law, while the acquittal of the petitioner/ accused in the earlier case was in force not being challenged in any Court. In such circumstances, the continuation of proceedings in the present case is nothing but an abuse of process of law and hence, the same are liable to be quashed.

Accordingly, the criminal petition is allowed and the proceedings in Crime No.185 of 2015 of Atmakur Police Station, Kurnool District are quashed. As a sequel thereto, miscellaneous petitions, if any, pending, shall stand closed.

RAJA ELANGO, J

Date: 25-02-2016

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