

THE HON'BLE SRI JUSTICE M. SATYANARAYANA MURTY

Crl.P.No.14630 of 2016

ORDER

This petition is filed under Section 482 Cr.P.C., to quash the FIR in Cr.No.109 of 2016 of Nandikotkur Police Station, Kurnool District, registered for the offences punishable under Sections 494 read with Section 34 IPC, against the petitioners/A2, A5 and A6.

2. The case of the de facto complainant, first respondent herein, is that she married A1-Bobbilla Srinivasa Rao on 23.02.2008 at Guntur and thereafter, they lived together and blessed with a female child in the year 2009. Subsequently, they shifted to USA, where she was allegedly meted with harassment in the hands of A1. Thereafter, due to differences, A1 filed O.P.No.246 of 2012 on the file of the Judge, Family Court, Guntur, and obtained decree on 28.11.2014 dissolving the marriage between A1 and the de facto complainant. Thereafter, the decree was challenged before this Court in F.C.A.No.217 of 2014 and obtained an order of suspension of said decree of divorce on 06.12.2014.

3. The averments in the complaint would show that before obtaining the decree of divorce, A1, the husband of de facto complainant, married the first petitioner herein in the month of September, 2015 with the aid of other accused and thus, the act of A1 in marrying the first petitioner during subsistence of first marriage i.e., before obtaining divorce dated 28.11.2014, is an offence punishable under Section 494 IPC. Even otherwise, as per the provisions of Section 15 of Hindu Marriage Act, 1955, any marriage between two Hindus solemnized before the expiry of time allowed for

preferring an appeal also amounts to an offence punishable under Section 494 IPC. Therefore, I find *prima facie* no grounds to quash the proceedings in the aforesaid crime as the allegations in the complaint would constitute an offence punishable under Section 494 IPC. Truth or otherwise of the allegations cannot be looked into at this stage. However, learned Public Prosecutor requested to pass an order directing the police concerned to follow the procedure as envisaged under Section 41-A Cr.P.C., and as held by the Apex Court in **Arnesh Kumar v. State of Bihar**¹.

4. In view of the request made by the learned Public Prosecutor and having found that there are no grounds to quash the FIR, I deem it appropriate to direct the police concerned to follow the procedure as envisaged under Section 41-A Cr.P.C., and the principles laid down by the Apex Court in **Arnesh Kumar's** case (1 supra).

5. With the above direction, the Criminal Petition is disposed of. Miscellaneous petitions, if any, pending in this criminal petition shall stand closed.

M. SATYANARAYANA MURTY, J

18th October, 2016
sj

¹ 2014(2) ALT (CrI.) 457 (SC)