

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION No.1462 of 2017

ORDER

This petition under Section 438 of Criminal Procedure Code is filed by petitioners/accused Nos.1 and 2 for grant of anticipatory bail in the event of their arrest in Crime No.17 of 2017 of Utnoor Police Station, Adilabad District, registered for the offences punishable under Sections 494, 498-A, 506 read with 34 IPC.

2. Smt Thodsam Mothibai, who is first wife of first petitioner/A1, filed a private complaint before the Judicial Magistrate of First Class, Utnoor, for the offences punishable under Sections 494, 498-A, 506 read with 34 IPC, alleging that she married A1 on 26.05.1978 at Keslapur Village and both of them lived happily at the house of her-in-laws in the same Village. Thereafter, A1 shifted his residence to Utnoor, because the complainant was working as Nurse in Government Hospital, Utnoor, and they lived happily for a period of six years and during this period, A1 secured employment as Conductor in RTC, Adilabad Depot. Thereafter, the complainant was transferred to Asifabad Government Hospital and the couple blessed with two female children, namely Swetha and Shirisha. Later, A1 was dismissed from service in RTC and subsequently, he secured job in ITDA Utnoor as Record Assistant. As the complainant was residing at different place, A1 got married the second petitioner/A2 during subsistence of first marriage and they blessed with four children. Therefore, the accused have allegedly committed the offences punishable under Sections 494, 498-A, 506 read with 34

IPC.

3. The contention of learned counsel for petitioners is that A1 belongs to Tribal community and that after dissolution of marriage between the complainant and A1 as per caste customs (Pardhana), A1 got married A2 and the complainant was also married another person, by name, Shankar and they blessed with children and therefore, no offence is made out against the accused and that the present complaint is filed taking advantage of the greetings published in Eenadu Telugu daily on 02.11.2016 on the occasion of retirement of complainant. His further contention is that A1 married A2 and living separately since long time and therefore, the question of commission of offences punishable under Sections 494, 498-A, 506 read with 34 IPC., does not arise.

4. Learned Public Prosecutor for the State of Telangana contended that the investigation is in midway and that no material is produced before the Court to prove that the complainant married another person and blessed with children and the marriage between the complainant and A1 was dissolved as per caste customs (Pardhana) and therefore, he prayed to dismiss the petition.

5. The contention of petitioners is that A1 obtained divorce with the complainant as per caste customs i.e., Pardhana about 28 years ago and later, he married A2 and blessed with four children and the complainant was also married one Shankar and they blessed with children and therefore, marrying another person after dissolution of marriage is not an offence. However, the petitioners have not produced any material before the Court to show that the earlier

marriage between the complainant and A1 was dissolved either by caste customs or by the competent Court. Similarly, no material is produced before the Court to show that the complainant was also married one Shankar after dissolution of her marriage with A1 and blessed with children. In the absence of any piece of evidence, at this stage, it is difficult for this Court to conclude that A1 has not committed the offence punishable under Section 494 IPC and therefore, I find that it is not a fit case to grant pre-arrest bail to petitioners/A1 and A2 by exercising power under Section 438 Cr.P.C. Consequently, the Criminal Petition is liable to be dismissed and the same is accordingly dismissed.

The miscellaneous petitions, if any, pending in this petition shall stand dismissed.

23rd February, 2017
sj

M. SATYANARAYANA MURTHY, J

