

HON'BLE SRI JUSTICE T. SUNIL CHOWDARY

Criminal Revision Case No.51 of 2017

JUDGMENT:

This criminal revision case is filed under Sections 397 and 401 of Cr.P.C., challenging the order dated 09.12.2016 passed in CrI.M.P.No.4829 of 2016 in C.C.No.422 of 2015 on the file of the Judicial Magistrate of First Class at Kothapeta.

2. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor for the respondent (AP).

3. The petitioner, who is the husband of the *de facto* complainant (LW.1), facing the trial for the offences punishable under Sections 420, 498-A, 506 read with 34 of IPC in CC No.422 of 2015 on the file of the Judicial Magistrate of I Class, Kothapeta. During the pendency of the trial, the prosecution filed a petition under Section 242 Cr.P.C. to receive the original wedding card and marriage certificate of *de facto* complainant and the petitioner. The petitioner herein filed a counter opposing the petition. After affording reasonable opportunity to both parties, the trial court allowed the petition.

4. The contention of the learned counsel for the petitioner is that the police constable has no right or whatsoever to file a petition before the trial court. He further submitted that the trial court ought not to have allowed the petition at a belated stage.

5. In order to appreciate the contentions of the learned counsel for the petitioner, I have carefully scanned the petition filed before the trial court. A perusal of the record clearly reveals that the Additional Public Prosecutor has filed the petition under Section 242 Cr.P.C. Thus, the first contention of the petitioner that the petition is filed by the police constable is untenable.

6. The second contention of the petitioner is that the present petition is filed at a belated stage. Mere delay in filing the petition that itself is not a valid ground to dismiss the petition. The court has to see whether receiving of such documents would cause prejudice to the accused or not?

7. A careful perusal of the record clearly reveals that the Investigating Officer filed the Xerox copies of the wedding card and marriage certificate of the petitioner with LW.1-*de facto* complainant along with the charge sheet. Now the present petition is filed to receive the originals of those documents. In the petition, it is categorically mentioned that the Investigating Officer filed the Xerox copies of the above referred two documents along with the charge sheet. It appears that at the time of investigation, the Investigating Officer could not get the original documents. Mere filing of the original documents in the place of Xerox copies would not cause any prejudice to the petitioner. Further, it is not the case of the petitioner that the *de facto* complainant is not his wife. Hence, there is no delay in filing the petition.

8. Having regard to the facts and circumstances of the case, I am of the view that the trial court has rightly considered the material available on record with reference to case the law and allowed the said petition. The findings recorded by the trial court are supported by the material available on record. The trial court has not committed any error while allowing the petition. There is no illegality or irregularity in the orders passed by the trial court, which warrants interference of this court.

9. In the result, the criminal revision case is dismissed. Miscellaneous petitions, if any pending in this case, shall stand closed.

T. SUNIL CHOWDARY, J

Date: 06.01.2017
BSS

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