

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL REVISION CASE No.1400 of 2009

ORDER:

1 This Criminal Revision Case is filed under Section 397 and 401 Cr.P.C. challenging the order dated 24.02.2009 passed in CrI.M.P.No.4624 of 2008 in C.C.No.533 of 2003 on the file of the Court of the Additional Junior Civil Judge, Mangalagiri, wherein whereby the petition filed under Section 216 Cr.P.C was allowed.

2 The learned counsel for the petitioner strenuously submitted that the trial Court misconstrued the scope of Section 216 Cr.P.C and allowed the petition on erroneous grounds. He further submitted that there is no material much less prima facie material on record to add Section 420 and 495 IPC.

3 *Per contra*, the learned Additional Public Prosecutor submitted that the oral testimony of P.W.1 coupled with Exs.P.1 to P.3 is prima facie sufficient to add Section 420 and 495 IPC. He further submitted that this is not a fit case to interfere with the order of the trial Court by exercising revisional jurisdiction under Section 397 Cr.P.C.

4 Now the point that arises for consideration in this Criminal Revision Case is “whether the impugned order is sustainable in law or not?”

5 A perusal of the record reveals that the petitioner is facing trial in C.C.No.533 of 2003 on the file of the Court of the Additional Junior Civil Judge, Mangalagiri, for the offence punishable under Section 498-A of IPC. The case of the de-facto complainant is that petitioner subjected her to cruelty for additional dowry. The de-facto

complainant examined herself as P.W.1 and got marked Exs.P.1 to P.3. Thereafter, the prosecution filed CrI.M.P.No.4624 of 2008 under Section 216 Cr.P.C to add section 420 and 495 of IPC. It is the case of the de-facto complainant that she is the legally wedded wife of the petitioner. It is the further case of the de-facto complainant that the petitioner by concealing the factum of his prior marriage married her on 27.05.2001. To substantiate the allegations, P.W.1 placed reliance on Exs.P.1 to P.3. A perusal of the record reveals that the petitioner filed O.P.No.24 of 2000 on the file of the Court of the Senior Civil Judge, Tenali against his wife for dissolution of the marriage. A perusal of the record prima facie reveals that the petitioner was having wife and children prior to 27.05.2001. By concealing the earlier marriage, no spouse is entitled to marry another person during the subsistence of his / her prior marriage. Such an act of person falls within the ambit of Section 495 IPC.

6 Section 420 IPC deals with cheating. While framing the charge, the court has to consider whether there is any prima facie material against the accused to proceed further or not. The oral testimony of P.W.1 coupled with Exs.P.1 to P.3 reveals that there is a prima facie material to proceed further against the petitioner for the offences punishable under Sections 420 and 495 of IPC. The trial Court has rightly considered the scope of Section 216 Cr.P.C. and allowed the petition.

7 The findings recorded by the trial Court are supported by oral and documentary evidence. There is no illegality or irregularity in the order passed by the trial Court which warrants interference of this court in exercise of revisional jurisdiction under Section 397 Cr.P.C.

8 Having regard to the facts and circumstances of the case I am of the considered view that this is not a fit case to allow the Revision Case. This Revision Case lacks merits and bonafides. Accordingly, this Criminal Revision Case is dismissed. As a sequel, miscellaneous petitions, if any pending in this Criminal Revision Case, shall stand closed.

T. SUNIL CHOWDARY, J.

Date: 31.08.2017

Kvsn

