

THE HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

CRIMINAL PETITION NO. 3667 OF 2018

ORDER:

This petition is filed Under Section 482 of Cr.P.C. by the petitioners/respondents 1 and 2 challenging the order dated 12.3.2018 in CrI.M.P.No.194 of 2018 in M.C.No.22 of 2012 passed by Judge, Family Court, Krishna at Machilipatnam allowing the petition filed by the respondent/petitioner to recall RW1 for further cross-examination on the ground that certain aspects touching the marriage between the petitioner and RW1 were not asked during the earlier cross-examination.

Heard the learned counsel for the petitioners and this petition is disposed of at the admission stage.

The submission of the learned counsel for the petitioners is that in the petition in CrI.M.P.No.194 of 2018, the respondent/petitioner did not specifically mention that during the previous cross-examination, questions touching their marriage were not asked and hence recall of RW1 was essential. On the other hand, it was only mentioned that during the earlier cross-examination some important relevant questions were not asked and, therefore, he may be recalled. It is only in the order it was mentioned as if the respondent/petitioner had to ask some questions relating to the

marriage. In view of the said improvement made by the respondent/petitioner, the Trial Court ought not to have allowed the said petition.

It is true that in the petition filed in CrI.M.P.No.194 of 2018, the respondent/petitioner did not specifically mention that during the earlier cross-examination she failed to ask the questions relating to the marriage between her and RW1. She only stated that there was no cross-examination relating to some important and relevant aspects. In the impugned order, the trial Court mentioned that RW1 was not cross-examined with regard to marriage aspects and therefore, his recall was essential. Merely because the respondent/petitioner failed to specifically mention that she required recall of RW1 for the purpose of questioning him on the marriage aspects, that alone cannot be a ground to dismiss her application. During the course of hearing the petition, the respondent/petitioner brought to the notice of the Court that the recall was necessary for cross-examination of RW1 on the aspect of marriage between her and RW1 and it appears that the trial Court, having been satisfied with the requirement, allowed the petition.

This Court finds no illegality or perversity in the order impugned. It is a matrimonial matter and the

respondent/petitioner shall be given a fair opportunity to elicit the facts relating to the marriage between her and RW1.

Considering all the above facts, the Criminal Petition is dismissed.

Pending miscellaneous petitions, if any, shall also stand dismissed. No order as to costs.

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U. DURGA PRASAD RAO,J

Date: 29.3.2018

KPM

