

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION No. 8584 OF 2018

ORDER:

This petition is filed under Section 482 of the Code of Criminal Procedure (for short, 'Cr.P.C.') by the petitioner-accused No. 2 to quash the proceedings against her in crime No. 59 of 2017 of Allagadda Town Police Station, Kurnool District, registered for the offence punishable under Section 494 read with Section 34 of IPC.

2. Respondent No. 2-Gaddam Pramila, wife of accused No. 1, filed a private complaint on the file of the Court of Judicial Magistrate of I Class, Allagadda (for short, 'the Court below'), alleging that accused No. 1 married the petitioner though her marriage with accused No. 1 is in subsistence. The Court below by exercising power under Section 156 (3) of Cr.P.C. forwarded the complaint to police concerned for investigation and to file report. On reference, the police registered the above crime for the offence referred *supra* and issued F.I.R.

3. The present petition is filed on the ground that in view of the bar under Section 198 (1) (c) of Cr.P.C., respondent No. 2-wife is incompetent to file the present complaint and therefore prayed to quash the proceedings on this sole ground.

4. Admittedly, the offence registered against the petitioner is punishable under Section 494 read with Section 34 of IPC. Section 494 of IPC deals with punishment for bigamous marriage. According to Section 198 (1) (c) of Cr.P.C., no Court shall take cognizance of an offence punishable under Chapter XX of IPC except upon a complaint made by some person aggrieved by the offence provided that where the person aggrieved by an offence punishable under Section 494 or Section 495 of the Indian Penal Code is the wife, complaint may

be made on her behalf by her father, mother, brother, sister, son or daughter or by her father's or mother's, brother or sister, with the leave of the Court, by any other person related to her by blood, marriage or adoption. Here, the private complaint was filed by respondent No. 2-wife of accused No. 1 with whom the marriage of the petitioner was allegedly performed during subsistence of her marriage with accused No. 1. Respondent No. 2, being the wife of accused No. 1, is incompetent to file the present complaint in view of the bar under Section 198 (1) (c) of Cr.P.C. and therefore the proceedings against the petitioner are liable to be quashed.

5. The criminal petition is allowed quashing the proceedings against the petitioner-accused No. 2 in crime No. 59 of 2017 of Allagadda Town Police Station, Kurnool District. Pending miscellaneous petitions, if any, in this criminal petition shall stand closed in consequence.

Date: 14-08-2018.

JSK

M.SATYANARAYANA MURTHY, J.

