

HON' BLE DR. JUSTICE B. SIVA SANKARA RAO

CRIMINAL PETITION No.9080 of 2018

ORDER:

The petitioners are A1 to A11 in C.C.No.742 of 2017 on the file of the Special Mobile Court, Ananthapuramu, where the learned Magistrate has taken cognizance for the offence punishable under Section 420 r/ w 34 IPC, which is outcome of the report of the 2nd respondent/de facto complainant in Crime No.54 of 2016, dated 16.04.2016 of III Town Police Station, Ananthapuramu, in registration of crime from investigation police filed final report against accused.

2. The sum and substance of the accusation from the FIR and the police final report in making out the alleged offence for registration of crime and filing of final report supra is that de facto complainant is husband of A1, whose parents are A2 and A3 and other relatives including brother, sisters and their husbands respectively are A4 to A11 that the marriage of the de facto complainant with A1 was performed on 11.06.2015 at Anantapur. The further allegation is that A1 stayed with de facto complainant at the matrimonial house at Anantapur for some time and she left from the matrimonial house to Adoni and returned from Adoni to Anantapur later on 31.08.2015 and quarrelled with de facto complainant and again left the

matrimonial house to Adoni on 08.11.2015 and later never returned. However, she filed M.C. against him falsely and on receipt of notice from the Court in the M.C. on 05.01.2016, he cause issued notice dated 31.01.2016 calling A1 to A4 to furnish true and correct information regarding her earlier marriage. A1 filed O.P.No.41 of 2004 before the Family Court, Kurnool for dissolution of her earlier marriage and by Lok Adalat award of Kurnool, dated 23.07.2004 the earlier marriage of the 1st petitioner was dissolved and complainant was informed about earlier marriage which was already dissolved by the award by 1st petitioner and 1st petitioner filed complaint against de facto complainant and his mother in Crime No.129 of 2015 dated 22.12.2015 for the offences punishable under Sections 498-A IPC and Sections 3 and 4 of the Dowry Prohibition Act and the present case is now alleged in the quash petition as counter-blast from said averments.

3. The sum and substance of the accusation there from was 1st petitioner in particular among other petitioners/ accused in general in performance of marriage of A1 with de facto complainant on 11.06.2015 suppressed the factum and she earlier undergone ceremony of marriage and obtained Lok Adalat Award of divorce on 23.07.2004 in O.P.No.41 of 2004.

4. Here the crux is whether there is any intentional suppression of any material fact and played deception in

undergoing ceremony of marriage and but for that he could not have accepted had he known to attract the offence defined under Section 415 IPC punishable under Section 417 IPC or the aggravated form under Section 420 IPC for registration of the crime and to take cognizance including against A1 leave about others.

5. It is not in dispute practically of the marriage was performed as per the caste custom and traditional rights by sitting on the planks of A2 and A3 to kanyadanam of A1 with de facto complainant. However, that will not be sufficient to rope them for the alleged offence of cheating. Even if at all made against A1 for A1 and de facto complainant are majors and it is an arranged marriage that too, the arrangement was after seeing each other and negotiating with each other. It is not specific allegation that A2 to A11 or any of them in particular made any assurance of she was chaste and there was no any ceremony and he was lured there from and deceived consequently there from. In the absence of such an allegation of dishonest intention from the inception of marriage looking suppressing the factum of the earlier marriage undergone by her with another person that was dissolved in 2004 is not the case with any such specific allegation to attract the offence of cheating with dishonest intention from inception. Same is also the case with A1 may

be it is a material fact but there is nothing to show intentionally suppressed to lure, which is a pre-requisite not only at the time of marriage but also from the pre-marital negotiations. In the absence of which, there is no offence of cheating that could be made out to sustain the registration of the crime and the cognizance order including against A1.

6. Accordingly, the Criminal Petition is allowed quashing the proceedings against the petitioners/ A1 to A11 in C.C.No.742 of 2017 on the file of the Special Mobile Court, Ananthapuramu.

7. Miscellaneous petitions pending, if any, shall stand closed.

Date: 20.12.2018
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Dr. B. SIVA SANKARA RAO, J

