

**IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERAABAD**

**FRIDAY, THE ELEVENTH DAY OF NOVEMBER
TWO THOUSAND AND TWENTY TWO**

PRESENT

THE HONOURABLE SRI JUSTICE K.SURENDER

CRIMINAL PETITION NO: 5781 OF 2019

Between:

1. Erati Shankariah, S/o Yellaiah, Aged 57 yrs, Occ Govt. Employee, R/o Plot No.28, South Swaroop Nagar, Uppal, Rachakonda District.
2. Erati Yadamma, W/o E.Shankariah, Aged 48 yrs, Occ Housewife, R/o Plot No.28, South Swaroop Nagar, Uppal, Rachakonda District.

...PETITIONERS/ACCUSED 1 AND 2

AND

1. The State of Telangana, rep.by its Public Prosecutor, Hyderabad, High Court at Hyderabad. .. Respondent / Complainant
2. Erati Shanta Devi, W/o E.Shankariah, Age 56 yrs, Occ Housewife, R/o 4-6-32/93, Nacharam, Baba Nagar, Rachakonda District.

...RESPONDENT/ DEFACTO COMPLAINANT

Petition under Section 482 of Cr.P.C praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the High Court may be pleased to quash the proceedings in C.C.No.3828/2019 on the file of the IV Addl. Metropolitan Magistrate, Ranga Reddy District at L.B.Nagar .

I.A. NO: 1 OF 2019

Petition under Section 482 of Cr.P.C praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the High Court may be pleased to stay all further proceedings in respect of C.C.No.3828/2019 pending on the file of IV Addl.Metropolitan Magistrate, Ranga Reddy District at L.B.Nagar, pending final disposal of the main quash petition .

This Petition coming on for hearing, upon perusing the Memorandum of Grounds of Criminal Petition and upon hearing the arguments of Sri GOPALA KRISHNA KALANIDHI, Advocate for the Petitioner and the Public Prosecutor on behalf of the Respondent No.1 and Sri D. KULASHEKHAR, Advocate for the Respondent No. 2 .

The Court made the following: ORDER

THE HONOURABLE SRI JUSTICE K.SURENDER

CRIMINAL PETITION NO.5781 OF 2019

ORDER:

1. This Criminal Petition is filed by the petitioners/A1 and A2 to quash the proceedings in CC No.3828 of 2019 on the file of the IV Additional Metropolitan Magistrate, Ranga Reddy District at L.B.Nagar.
2. The allegation against the petitioners is that the 1st petitioner was married to the 2nd respondent/*defacto* complainant on 20.05.1979. They had two daughters and one son. For the reason of harassing her, the 2nd respondent left the 1st petitioner and went missing. The 1st petitioner filed Crime No.24 of 1989. However, they were living separately since the year 1989. Prior to filing of the present complaint on 26.04.2019, the 2nd respondent came to know that the petitioners performed the marriage of their son on 28.02.2019 and in the said marriage card, the name of the 1st petitioner was printed as father and 2nd petitioner's name was printed as mother. When the 2nd respondent/*defacto* complainant questioned, the 1st petitioner asked her to go away. Aggrieved by the same, complaint for the offence of bigamy, cruelty and also for criminal intimidation was filed.

3. Learned counsel for the petitioners would submit that admittedly, the 1st petitioner and 2nd respondent were living their lives since the year 1989. For the reason of marriage of the son of the 1st petitioner, present false complaint was filed.

4. On the other hand, learned counsel for the 2nd respondent would submit that though they were living separately since the year 1989, the cause of action arose on 28.02.2019 on which date, the 1st petitioner threatened the defacto complainant/2nd respondent of dire consequences. Further, the 1st petitioner married the 2nd petitioner during the subsistence of the marriage of the 1st petitioner and the 2nd respondent, for which reason, the said marriage is void. Both the petitioners are liable for the offence of bigamy and harassment.

5. The police filed charge sheet after investigation alleging that the 1st petitioner married the 2nd petitioner without taking divorce from the 2nd respondent. However, the only basis on which the such conclusions are drawn is the marriage card which was collected during investigation provided by the 2nd respondent. The said marriage card cannot be considered as evidence to state that the 1st petitioner has married the 2nd petitioner. Proof of marriage would be either the marriage certificate or any witnesses who have

witnessed solemnization of the marriage of the petitioners according to customs. In the absence of any such events, only on the basis of wedding card, it cannot be concluded that the 1st petitioner married the 2nd petitioner. Living as husband and wife is different from getting married in accordance with the prevailing customs. No photographs are collected nor any witnesses to the marriage, were examined during the course of investigation to ascertain whether the 1st petitioner married the 2nd petitioner.

6. The 2nd respondent has left the company of the 1st petitioner in the year 1989, for which reason, FIR was filed which is Cr.No.24 of 1989 of Nacharam Police Station. A copy of the said FIR is also filed, in which it was mentioned that the 2nd respondent was missing. There is absolutely no communication or anything that transpired in between the 1st petitioner and 2nd respondent over a period of 30 years. When admittedly, they did not live together for 30 years, the allegation of harassment under Section 498-A of IPC is not attracted. The offence under Section 498-A of IPC is punishable upto 3 years. The limitation for filing complaint as prescribed under Section 468 of Cr.P.C is maximum period of three years. The complaint for harassment ought to have been filed before 1992. Though any delay can be condoned under Section 473

of Cr.P.C, since absolutely there is nothing in the entire complaint regarding any event that transpired from the said year, for which reason, the complaint is hopelessly barred by limitation.

7. It is mentioned in the complaint that when the *defacto* complainant/2nd respondent questioned about the marriage that was performed by these petitioners of their son, the petitioners stated that "you go and state to whomsoever you want". Even assuming that such statement was made by the petitioners, it does not amount to an offence of criminal intimidation.

8. For the aforementioned reasons, the proceedings against petitioners in CC No.3828 of 2019 on the file of IV Additional Metropolitan Magistrate, Ranga Reddy District at L.B.Nagar are hereby quashed.

9. Accordingly, the Criminal Petition is allowed.

SD/-B.CHANDRA PRAKASH
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The IV Additional Metropolitan Magistrate, Ranga Reddy District at L.B.Nagar.
2. The Station House Officer, Nacharam Police Station, Rachakonda, Malkajgiri , Ranga Reddy Dist.
3. Two CCs to Public Prosecutor, High Court for the State of Telangana at Hyderabad (OUT)
4. One CC to SRI. GOPALA KRISHNA KALANIDHI Advocate [OPUC]
5. One CC to SRI. D. KULASHEKAR, Advocate [OPUC]
6. Two CD Copies
7. One Spare Copy

MMK
GJ

HIGH COURT

DATED:11/11/2022

ORDER

CRLP.No.5781 of 2019



ALLOWING THE CRL.PETITION

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MA
19/11/22