

BAIL SLIP : The Appellant / Accused was directed to be released on bail by the Order of the High Court dated 11-02-2013 made in CrI.A.M.P.No.210 of 2013 in CrI.A.No.117 of 2013

IN THE HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

WEDNESDAY, THE TWENTY SECOND DAY OF JANUARY
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE SRI JUSTICE K.SURENDER

CRIMINAL APPEAL NO: 117 OF 2013

Appeal under Section 374 (2) of Cr.P.C. against the Judgment dated 14-11-2012 made in S.C.No.1 of 2012 on the file of the Court of the Special Sessions Judge for Trial of Cases under SCs & STs (POA) Act-cum-Additional Sessions Judge at Khammam.

Between:

Chirra Lakshman Rao, S/o. Pullaiah, Aged 25 years, Occ. Coolie, R/o. Yatapaka, Bhadrachalam Mandal, Khammam District

...Appellant / Accused

AND

The State of A.P., Rep., by Public Prosecutor, High Court of A.P., Hyderabad

...Respondent / Complainant

Counsel for the Appellant : Sri Mummaneni Srinivasa Rao

**Counsel for the Respondent : Sri M Vivekananda Reddy
Assistant Public Prosecutor**

The Court delivered the following Judgment :

THE HONOURABLE SRI JUSTICE K.SURENDER**CRIMINAL APPEAL No.117 OF 2013****JUDGMENT:**

1. This appeal is filed by the appellant aggrieved by the judgment dated 14.11.2012 in S.C.No.1 of 2012, on the file of Special Sessions Judge for Trial of Cases under SCs & STs (POA) Act-Cum-Additional Sessions Judge, at Khammam. The appellant was initially tried for the offences under Section 336-A, alternatively under Sections 366, 376, 415 r/w. 417, 493, 495 of IPC and Sections 3 (1) (xii) and 3 (2) (v) of SCs and ST's (POA) Act.

2. Heard the learned counsel for the appellant/Accused and Sri M.Vivekanana Reddy, learned Assistant Public Prosecutor for respondent-State.

3. Briefly, the case against the appellant is that while his marriage with P.W.10 was subsisting, he again married P.W.2 by suppressing earlier marriage with P.W.10. The said marriage had taken place at Peddamma temple where according to P.W.2, the appellant tied Tali (sacred thread). At the time of marriage, 4 photographs were also taken which were filed as Ex.P.11.

4. Learned Sessions Judge found that the appellant was not guilty of the offences under Section 376 of IPC and Section 3 (1) (xii) and Section 3 (2)(v) of SCs & STs (POA) Act. However, he was found guilty for the offences under Sections 366, 415 r/w.417 and 495 of IPC.

5. Learned counsel appearing for the appellant would submit that the question of attracting an offence under Section 495 of IPC does not arise unless it is proved that the person had married again during life time of his wife which is punishable under Section 494 of IPC. Since no such proof was filed by the prosecution, the conviction under Section 495 of IPC has to be set aside. Further, counsel argued that the question of cheating does not arise since the marriage itself was not proved and there was never any misrepresentation or inducement for marrying P.W.2.

6. P.W.10 is the 1st wife of the appellant. She stated before the Court that appellant is her husband and marriage took place 5 years prior and they have a female child, who died. Thereafter, she gave birth to two male twins. The appellant did not dispute his marriage with P.W.10. Further, as seen from the examination under Section 313 Cr.P.C, the appellant did

not dispute Ex.P.11, photographs of marriage nor the statement of P.W.2 that appellant married her at Peddamma temple.

7. The argument of the learned counsel has no basis since the appellant himself did not dispute that P.W.10 is his 1st wife nor had he disputed marriage with P.W.2. It is evident that the appellant had married P.W.2 when his marriage was subsisting with P.W.10.

8. According to P.W.2, the factum of marriage with P.W.10 was not known to her nor did the appellant reveal that he was already married.

9. In the present facts of the case, learned Sessions Judge has rightly convicted the appellant for the offence of cheating under Section 417 of IPC and also under Section 495 of IPC. The conviction needs no interference. However, the sentence of imprisonment under Section 495 of IPC is reduced to two years.

10. Learned Sessions Judge also convicted the appellant under Section 366 of IPC. To attract an offence under Section 366 of IPC, it has to be proved that the woman was abducted with an intent that she may be compelled to marry any other person or to have sexual intercourse with any other person. The word 'whoever' in Section 366 of IPC will not include the

person who had abducted the woman. Further, P.W.2 did not state that she was forcibly taken or abducted for marrying the appellant. For the said reason, Section 366 of IPC has no application in the present facts of the case. Accordingly, conviction under Section 366 of IPC is set aside.

11. In the result, the Criminal Appeal is partly allowed. Since it is informed that the appellant is on bail, the trial Court shall cause appearance of the appellant and send him to jail to serve out the remaining part of the sentence imposed by this Court.

//TRUE COPY//

A.V.S.S.C.S.M. SARMA
JOINT REGISTRAR

SECTION OFFICER

To,

1. The Special Sessions Judge for Trial of Cases under SCs & STs (POA) Act-cum-Additional Sessions Judge at Khammam (with records, if any)
2. The Judicial Magistrate of First Class, Charla, Bhadrachalam, Khammam District
3. The Station House Officer, Charla PS, Khammam District
4. The Superintendent, Central Jail, Warangal
5. Two CCs to the Public Prosecutor, High Court for the State of Telangana, Hyderabad [OUT]
6. One CC to Sri Mummaneni Srinivasa Rao, Advocate [OPUC]
7. Two CD Copies

VA/gh



HIGH COURT

DATED:22/01/2025

JUDGMENT

CRLA.No.117 of 2013



PARTLY ALLOWING THE CRLA

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04/02/25
bvs