

IN THE COURT OF THE METROPOLITAN SESSIONS JUDGE :: HYDERABAD

Dated this the 23rd day of January, 2018

Present: Sri. G. Venkata Krishnaiah,
Metropolitan Sessions Judge,
Hyderabad.

CRIMINAL REVISION PETITION NO. 192/2017Between:

Maj Pankaj Rai (Retd.), S/o Krishna Kumar Rai,
Aged about 58 years,
R/o.12 Vayupuri, Road No.2, Post Sainikpuri,
Secunderabad – 500 094.

.....Revision Petitioner/Accused

AND

1). The State of Telangana,
CCS, Hyderabad.

.....Respondent

2). Mrs. Krishnaveni Rai nee
Mrs. Krishnaveni Chenji,
D/o Srinivasa Rao, Aged about 50 years,
R/o.Flat No.402, SMR Vinay Vihar Apartments,
Street No.11, Keemti Colony, Tarnaka,
Secunderabad – 500 007.

.....Respondent/Complainant

This Revision petition is filed under Section 397 of Cr.P.C. praying that for the reasons stated therein to set aside the orders dated 15-03-2017 passed by the XIII Addl. Chief Metropolitan Magistrate, Hyderabad in CrI.M.P.6829/2016 in CC.No.159/2016, wherein the petitioner filed petition under Section 239 of Cr.P.C. to discharge from the main case was dismissed.

This petition coming on for hearing before me upon perusing the petition and upon hearing the arguments of Revision Petitioner party in person and Sri P. Ravinder Reddy, Public Prosecutor of this Court for the State, this Court made the following:-

:: O R D E R ::

1. This revision petition is filed by the accused in the trial Court whose petition to discharge him for an offence under section 498-A IPC was dismissed.

2. This revision petition arose under the following circumstances:-

The petitioner is a widower. On 13.12.2014, he married the defacto-complainant Krishnaveni as per Hindu custom. Subsequently disputes arose between them and the peculiarity is that the petitioner herein was more attached to his dog than his wife.

However, the main dispute in this petition is that Krishnaveni suppressing certain facts when she married the petitioner on 13.12.2014. However, CrI.M.P.No.6829/2016 in C.C.No.159/2015 on the file of XIII Addl.CMM, Nampally was

filed by the petitioner on the ground that Krishnaveni was married to one Aravind Chenji. The said Aravind Chengu filed OP No.847/2000 against Krishnaveni seeking divorce on the ground of cruelty and adultery. Divorce was granted in that OP on 28.6.2005, custody of the children was given to Aravind Chenji. Krishnaveni filed appeal before the Hon'ble High Court in FCA No.109/2007, which was dismissed as withdrawn on 2.9.2016. Under section 15 of Hindu Marriage Act, a divorcee cannot remarry during the pendency of an appeal. Appeal is a continuation of the original proceeding. Petitioner realizing the mischief played by Krishnaveni filed OP No.475/2015 under the Provisions of 12 of Hindu Marriage Act. The Krishnaveni filed a complaint under section 498-A IPC against the petitioner on 15.5.2015 as an after thought.

3. The trial court dismissed the petition, which is according to the contentions of the petitioner and also the decisions on his behalf with regard to the effect of pendency of appeal.

4. Petitioner brought to the notice of the court that the maintenance case filed by Krishnaveni before the VII Addl.MSJ was dismissed by order dt:7.8.2017 after considering the facts of the case and also the effect of section 15 of the Hindu Marriage Act. The learned Judge also considered the declaration made by Krishnaveni while registering the marriage, Form-A application for registration of marriage was filled up by both the parties.

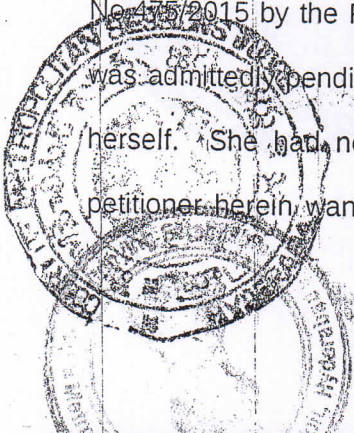
5. There is allegation that Krishnaveni moving closely with another person by name Col.Arya Hooda.

6. Now the point for consideration is:

"Whether the dismissal of the discharge petition by the trial court is justified?"

POINT:-

7. By the date of marriage on 13.12.2014, petitioner herein was a widower. The defacto Complainant was divorced by her husband as per the decree in OP No.475/2015 by the Family Court in the year 2015 and she preferred an appeal which was admitted pending till 2.9.2016. The appeal was filed by the defacto complainant herself. She had not withdrawn that appeal. It was only on 2.9.2016, when the petitioner herein wanted to implead himself, the Hon'ble High Court took notice of a

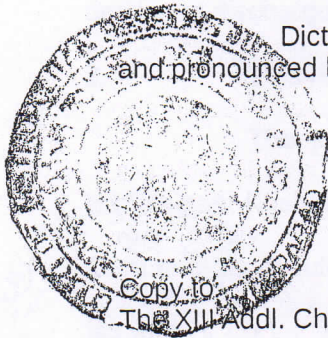


letter dt:24.8.2016 addressed by the counsel for the appellant wife to dismiss the appeal filed by the defacto complainant in FCA No.109/2017.

8. The anguish of the petitioner that Krishnaveni was not fair to him, and suppressed the pendency of the appeal cannot be ignored. The complainant suffered divorce at the hands of her husband Aravanid Chenji, she was also seen with Col.Hooda and she married the petitioner on 13.12.2014 even while appeal was pending. It was only when the petitioner herein wanted to implead himself that Krishnaveni sent a letter through her advocate withdrawing the appeal. The legal relationship of wife and husband as per the marriage dt:13.12.2014 is very much in dispute. As per the judgment relied upon by the petitioner referred to by the trial court between Union of India and others Vs. West Coast Paper Mills Limited and another, the appeal is continuation of the suit. Admittedly Krishnaveni underwent marriage with the petitioner even when the appeal was pending before the Hon'ble High Court. It was withdrawn only one year 9 months later. There is any amount of suppression of facts by Krishnaveni when she married the petitioner as per the Hindu Custom. Therefore, the grievance of the petitioner is justified. The material on record cannot make out a case in favour of Krishnaveni that she was harassed by the petitioner. The manner in which Krishnaveni married the petitioner on 13.12.2014, goes to the root of the matter, affects the core case of the prosecution. Therefore, the prosecution against the petitioner is not justified and there is no material to frame a charge against the petitioner. Accordingly, the revision petition is allowed.

9. In the result, the revision petition is allowed, setting aside the order of the trial court in CrI.M.P.No.6829/2016 in C.C.No.159/2016, dt:15.3.2017.

Dictated to Stenographer Grade-I transcribed and typed by him, corrected and pronounced by me in the open court, on this the 23rd day of January, 2018.



METROPOLITAN SESSIONS JUDGE
HYDERABAD

Metropolitan Sessions Judge
Hyderabad.

