

Korla Triveni Sri Sankalpa, Gorla Parvathi and Vanjangi Easwari @ Munni Vs The State of Andhra Pradesh and Daneti Anitha

Court: Andhra Pradesh High Court

Date of Decision: June 6, 2013

Acts Referred: Criminal Procedure Code, 1973 (CrPC) â€” Section 319

Dowry Prohibition Act, 1961 â€” Section 3, 4

Penal Code, 1860 (IPC) â€” Section 498A

Citation: (2014) 1 ALD(Cri) 345 : (2013) 2 ALD(Cri) 379

Hon'ble Judges: K.G. Shankar, J

Bench: Single Bench

Advocate: R. Ramanjaneyulu, for the Appellant;

Judgement

@JUDGMENTTAG-ORDER

K.G. Shankar, J.

The petitioners are A.2 to A.4. The Trial Court passed an order on 29.01.2013 directing to implead them as accused

Nos. 2 to 4. Assailing the same, the present revision is laid. The second respondent is the de facto complainant. She laid a complaint against as

many as five persons u/s 498-A IPC and Sections 3 and 4 of the Dowry Prohibition Act. A.1 is the husband of the de facto complainant. The

other accused, as alleged by the de facto complainant, are the kith and kin of her husband.

2. After due investigation, police considered that no case was made out against the other accused and deleting their names, charge sheet was laid

against A. 1 alone. The Learned Magistrate passed orders taking the case on file against A. 1 only. Subsequently, on 29.01.2013, while the de

facto complainant was deposing as P.W.1 and that when she made allegations against the petitioners, the Learned Trial Judge considered it

appropriate to array the petitioners as A.2 to A.4. He, consequently, ordered summonses to the petitioners. Hence questioning the same the

petitioners contended that the Learned Magistrate could not have and should not have issued summonses without prior notice to them.

3. Section 319 Cr.P.C. empowers the Court to proceed against any person who was not initially arrayed as an accused on the basis of the

evidence available. The Punjab and Haryana High Court observed in Pavittar Singh Vs. State of Punjab, that issuing summons to accused, who

was already discharged, was without jurisdiction. This decision has no application to the present facts of the case where the petitioners had not

been discharged earlier.

4. In R.J. Lakhia Vs. State of Gujarat, , the Court applied Section 319 Cr.P.C. to summon a senior advocate who was allegedly involved in a

case. The direction issued by the Sessions Judge to the advocate without hearing him to stand for trial along with other accused was questioned

before the Gujarat High Court. The Gujarat High Court considered that such an action on the part of the Sessions Judge without according an

opportunity to the senior advocate was illegal. With great respect, I am not able to agree with this view of the Gujarat High Court.

5. Section 319 Cr.P.C. does not envisage that notice should go to the proposed accused before cognizance is taken against the proposed accused

or before summonses are issued to the proposed accused. It was observed by the division bench of the Delhi High Court in Kishore v. State 1998

Crl.L.J. 1363 that a reasoned order should be recorded when additional accused are sought to be summoned. The Court also observed that

additional accused cannot be summoned on the basis of the evidence recorded in another case.

6. I consider that this decision also has no application to the facts of the present case where summonses were issued to the petitioners on the basis

of the evidence of P.W.1 in this case, and not on the basis of evidence in different cases. However, as rightly submitted by the Learned Counsel

for the petitioner, a reasoned order is expected by the Court when the Court proposes to include new parties as accused. The order assailed is

cryptic and without reasons. I, therefore, agree that the contention of the Learned Counsel for the petitioner that the order assailed deserves to be

set aside. However, the Trial Court may consider arraying the petitioners as co-accused by passing a reasoned order.

7. Accordingly, the Criminal Revision Case is allowed. The impugned order dated 29.01.2013 is set aside on the ground that it is not a reasoned

order. The Trial Court, indeed, is at liberty to pass a reasoned order if it considers it appropriate to array the petitioners as co-accused in C.C.

No. 121 of 2012. The miscellaneous petitions pending, if any, shall also stand disposed of.