

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

CRIMINAL APPEAL NO(s). 114 OF 2004

CHINTALA SAIBABA

Appellant (s)

VERSUS

STATE OF A.P.

Respondent(s)

WITH APPEAL(CRL) NO. 115 of 2004

Date: 26/10/2010 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE HARJIT SINGH BEDI
HON'BLE MR. JUSTICE CHANDRAMAULI KR. PRASAD

For Appellant(s)

Mr. ATM Ranga Ramanujam, Sr. Adv.
M/s. Ashok Kumar, Prakhar Sharma,
Anu Gupta, Bhakti Pasrija and
Abhijit Sengupta, Advs.

Mr. R. Nedumaran, Adv.

For Respondent(s)

Mr. Sundarvardhan, Sr. Adv.
Mr. Ramesh Allanki, Adv.
Mr. D. Mahesh Babu, Adv.

UPON hearing counsel the Court made the following
O R D E R

The appeals are allowed.

[SUMAN WADHWA]
COURT MASTER

[VINOD KULVI]
COURT MASTER

Signed order is placed on the file.
IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 114 OF 2004

CHINTALA SAIBABA

.. APPELLANT(S)

vs.

STATE OF A.P.

.. RESPONDENT(S)

WITH

CRIMINAL APPEAL NO. 115 OF 2004

O R D E R

This is an unfortunate case.

The appellant Chintala

Saibaba was earlier married to Smt. Padmavathamma in the year 1975. They lived as husband and wife till January 1996 and during that period a daughter Umamaheshwari (PW.2) was born to the couple. As per the record the girl would now be about 35 years of age. It appears that consequent to the birth of the aforesaid child the uterus of Smt. Padmavathamma was removed, with the result, she could not bear another child. It is the case of the prosecution that the appellant Chintala Saibaba-the husband thereupon started harassing her so that she could give consent to his second marriage so that he could bear a son. As per the prosecution he also performed a second marriage with Chintala Puhspalatha-co-accused on the 26th January, 1996, at the time when his first marriage was still subsisting.

-2-

A complaint was thereupon filed by PW.1 alleging offence punishable under Sections 494 and 498-A of the IPC. The Magistrate referred the complaint to the police under Section 156(3) of the Cr.P.C. and the police ultimately filed a charge-sheet for prosecuting the two appellants as also several others for offence punishable under Sections 494 and 498-A of the IPC. The Trial Court convicted all the accused for the aforesaid offences and sentenced them to various terms of imprisonment. An appeal was thereafter taken before the Sessions Court which allowed the appeal of all the accused other than the two appellants before us, that is the husband and his second wife-Chintala Saibaba and Chintala Pushpalatha. A revision taken by these two accused before the High Court has also been dismissed. The sentence of six months simple imprisonment under Section 498-A and one year's simple imprisonment under Section 494 of the IPC awarded to them by the Trial Court has also been affirmed.

In this appeal several arguments have been raised by

the learned counsel for the appellants. It has been argued that there was no evidence to show that the appellant's second marriage was a valid one as the ceremonies that were required to be performed had not been performed. It has also been pleaded that in the light of the fact that the

-3-

so-called marriage took place in the year 1996 and the parties were now stated to be about 60 years of age, it was appropriate that sentence should be reduced and the fine be suitably enhanced.

The learned counsel for the State of Andhra Pradesh has however supported the judgment of the courts below.

In so far as the evidence with regard to the second marriage is concerned, the three courts below have relied on the statement of the Purohit (PW.9) who categorically deposed that he had performed all the valid marriage ceremonies as per the tradition and customs of the family. The Trial Court also found corroboration for the marriage from the evidence of PW.5 who belonged to the same caste as the appellants who stated that all requisite ceremonies had been performed as per the custom prevailing in the community and that Datta Homa and Saptpadi were not essential ceremonies for this marriage. In view of the categoric testimonies of PW.9 and PW.5 the factum of the second marriage appears to have been proved beyond doubt.

We therefore find that the first argument with regard to the factum of the second marriage does not arise in this case.

We however find some merit in the second argument with regard to the reduction in the quantum of sentence.

Admittedly the marriage has broken down and PW.2 the

-4-

daughter of Chintala Saibaba and Padmavathamma is now 35 to 40 years of age. It would not serve any body's purpose to send them to jail due to the passage of time and on account

of their age. This matter has been pending for the last six years in this Court. We are also told by the learned counsel for the parties that the appellants have undergone about 15 days of the sentence. We, therefore, feel that in the interest of justice and in the peculiar facts of the case the sentence should be reduced to that already undergone but the fine amount on appellant No.1 is enhanced to Rs.25,000/- in all. The aforesaid amount shall be paid to PW.1 Smt. Padmavathamma within three months from today by way of a bank draft made out in her name. If the aforesaid fine is not paid, the appeal will be deemed to be dismissed in toto.

The learned counsel for appellant No.1 undertakes to inform PW.1 about the contents of this order by registered post within one month from today.

The Appeals are allowed accordingly.

.....J.
(HARJIT SINGH BEDI)

.....J.
(CHANDRAMAULI KR. PRASAD)

New Delhi,
October 26, 2010.