

IN THE COURT OF THE SUB DIVISIONAL MAGISTRATE :
RAMPACHODAVARAM.

PRESENT : SRI R. SUBRAHMANYAM, I. A. S.,

M. C. No. 6/88.

1. Pakalapati Lakshmi.	X	
2. Pakalapati Jogiraju	X	
(Minor being represented	X	Petitioners.
by mother)	X	
Maredumilli (v).	X	

Versus.

1. Pakalapati Suryanarayana Raju	X	
Contractor,	X	Respondent
Maredumilli.	X	

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This case coming on for hearings in the presence of Sri P. Trinadharao, M.A. B.L., Advocate for the petitioners and Sri D. Apparao, M.A. B.L., D.T.E., Sri S.V.S. Prasada Rao, B.A., LLb., and Sri T. Verugopal, B.Com., B.L., advocates for the Respondents and having stood over this 31st day of July, 1989 finally, the court made the following:

ORDER:

The first petitioner is a tribal of Maredumilli (v) and (m) in East Godavari District. She filed a petition against the Respondent u/s. 488 Cr.P.C. claiming maintenance allowance of Rs.300/- three hundred only for her-self and Rs.200/- two hundred only separately for the second petitioner who is a minor. The first petitioner alleged that herself and the Respondent cohabited for 4 years, that she be got a son, the second petitioner through the Respondent, that the Respondent developed illegal contacts with one Nagamani, that the Respondent admitted before the elders that he would marry the first petitioner lawfully, that he married Nagamani with whom he developed illegal intimacy, that the first petitioner and the second petitioner were deprived of their maintenance as the Respondent neglected them deliberately by marrying Nagamani, that he left them in distress despite the issue of registered notice got issued to him by her advocate on 5-3-86 and that hence the petition U/s. 488 Cr.P.C. for maintenance.

The Respondent denied all the allegation made against him in his counter filed in this Court.

The motive forming the back ground of the allegation is that the Respondent with a deceitful intent cohabited with the first petitioner assuming her that he would marry and later on married one Nagamani neglecting deliberately the maintenance of first and second petitioners.

The information laid before this court is that the Respondent is a Khatriya by caste doing contracts in Maredumilli Agency area, that the first petitioner and the Respondent cohabited for 4 years during which period first petitioner be got a son (Second petitioner being minor represented by mother) through the Respondent.

The points for determination are:-

1. Whether the first petitioner is legally wedded wife of the Respondent;
2. Whether the first petitioner is entitled to claim maintenance allowance; and
3. Whether the second petitioner (Illegitimate child) is eligible for separate maintenance allowance.

Before determining the aforesaid points, the merits of the case are discussed below.

Heard the arguments on both sides. It is urged by the Respondent's counsel that the very petition is not maintainable as the section 488 Cr.P.C. does not give any right to the concubine to claim maintenance allowance and it was envisaged for the wives who are deserted by their husbands, and the "word" wife used in the section denotes only legally wedded wife and it can not be extended to concubines, and that there is not proof of the second petitioner being born through the Respondent during cohabitation with the first petitioner and in the absence of any such proof, it can be said that the second petitioner is an illegitimate boy entitled for separate maintenance. In support of his arguments, the advocate for the Respondent cited AIR. Madras 513 (Vol. 41 Cr. 139) AIR 1960 Kerala 110 (V 47 C. 51) and AIR (29) 1942 Madras 251 relying upon the decision taken in these cases.

Pakabapati Lakshmi the first petitioner was examined as PW.1. She deposed that the Respondent who is a contractor in M.P.P. used to come and stay in her parent's house some 8 years back after developing illegal intimacy with her, that she be get

a son through the Respondent after 1½ years who is named as Jogi Raju, that herself and the Respondent continued to cohabit till the birth of another child after 4 years, that the Respondent married another woman and living in Maredumilli deliberately neglecting their maintenance, that her father died and her mother is doing cooly to bring up her and her kids that she also doesn't have any employment that she had not married any one and that she claims Rs.500/- for maintenance in case the Respondent is not willing to take her as his wife.

During cross examination, she deposed that she does not know if a notice is issued to the Respondent by her advocate, that the case is filed approximately in 1985-86, that there is nothing in writing that the Respondent agreed before the village elders to look after their maintenance that she bore her first son through the Respondent on 26-1-83, that she did not take this matter to the elders as it is her private affair that the Respondent stopped coming to her when the second child in second month in her womb, that it is not true to say that since she was pregnant she did not come to the court to hide it and that it is not true to say that it is a false case politically motivated.

The first petitioner is not a legally wedded wife of the Respondent. ~~She~~ The petitioner's contention is that the Respondent was cohabiting with her on the promise that he would marry her and as a result of such union, the second petitioner was born. The Respondent denied the allegation made against him by the first petitioner.

The petition U/s, 488 Cr.P.C. is dismissed as the components as mentioned in Section 488 Cr.P.C. are not found in this case.

Given under my hand and seal of the court this 31st day of July, 1982



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Sub-Divisional Magistrate,
Rampachedavaram.

Witnesses examined on petitioner's side.

1. F.W.I. Pakalapati Lakshmi
2. F.W.II Bathula Alis Mary
3. P.W.III Passi Sankhamma.



Ptc.

Witnesses examined on Respondent's side:

- 1. R.W.1: Pakalapati Suryanarayana Raju
- 2. R.W.II. Kandregula Satyanarayana
- 3. R.W.III. Ramanapudi Davi Reddy.

2/10

[Signature]
 SUB-DIVISIONAL MAGISTRATE,
 RAMPACHODAVARAM.

*Received copy
 D. Appa Rao
 Advocate for
 Respondent
 9-8-89.*

*Received copy
 M. T. Srinivas
 13/8/89.*

