

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 25.06.2015

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

CRL.OP.No.15504 of 2015
and MP.Nos.1 and 2 of 2015

Rani ... Petitioner/Accused No.2
Vs

1.State by the Inspector of Police
W13, All Women Police Station,
Tondiarpet, Chennai.

2.S.Mohana ... Respondents/Complainant.

Criminal Original Petition filed under Section 482 of Cr.P.C.,
praying to call for the records pending on the file of the learned XV
Metropolitan Magistrate, George Town, Chennai in C.C.No.599 of 2013
and quash the same.

For Petitioner : Mr.V.Paarthiban

For Respondents : Mr.C.Emalias, Addl. Public Prosecutor
[for R1]

O R D E R

This petition has been filed to quash the proceedings in
C.C.No.599 of 2013 on the file of the learned XV Metropolitan
Magistrate, George Town, Chennai.

2. Heard the learned counsel for the petitioner; learned
Additional Public Prosecutor appearing for the 1st respondent and
perused the materials placed on record.

3. It is seen that, on a complaint lodged by the defacto
complainant, the respondent police registered a case in Crime No.8 of
2012 under Section 498A, 406, 494 read with 109, 506[ii] IPC against
six accused including the petitioner herein. After completing the
investigation, the police filed a Final Report, which has been taken
on file as C.C.No.599 of 2013 by the learned XV Metropolitan
Magistrate, George Town, Chennai and after framing of charges, one
witness has also been examined.

4. Learned counsel for the petitioner submits that, earlier,
the same defacto complainant had filed a private complaint, which was

taken on file as C.C.No.5318 of 2009 for offence under Section 494 IPC and in that, the learned Magistrate by order dated 01.10.2014 had dismissed the private complaint as against this petitioner, holding that the complainant had failed to prove that this petitioner had married A1, knowing full well that he was already married.

5. Learned counsel for the petitioner submits that the finding of the learned Magistrate is binding in C.C.No.599 of 2013. He relied upon Article 20 of the Constitution of India to drive home this point. Article 20 of the Constitution of India will not come to the aid of this petitioner, since it states that no person can be prosecuted and punished for the same offence. Here, earlier prosecution was by a private complaint and on the failure of the private complainant to adduce evidence incriminating the petitioner, the Magistrate dismissed the private complaint as stated above. That cannot be a bar for the present prosecution, which proceeds on a police report.

6. Under such circumstances, the petition is devoid of merits and the same stands dismissed. At this juncture, learned counsel for the petitioner submits that the presence of the petitioner may be dispensed with before the Trial Court. The petitioner is directed to appear before the Trial Court for questioning under Section 313 Cr.P.C and on the date of judgment. For the other hearings, if the petitioner files a petition undertaking that her counsel will examine the witnesses, even in her absence and that she will not dispute her identity. The Trial Court is directed to liberally consider the same. Consequently, connected MP.No.1 of 2015 is closed.

gya

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

To

1. Inspector of Police
W13, All Women Police Station,
Tondiarpet, Chennai.
2. The Public Prosecutor,
High Court, Madras.

+ 1 cc to Mr.V.Parthiban, Advocate SR 31395

ctk(co)
prk2/7

CRL.OP.No.15504 of 2015