

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.10.2015

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Cr1.OP No.23250 of 2015  
and M.P.Nos.1 and 2 of 2015

Arulmozhi .. Petitioner

Vs

1.The Inspector of Police  
Viruthampat Police Station  
Women Wing  
Vellore  
Vellore District.

2.Saranya .. Respondents

Prayer:- Criminal Original Petition filed under Section 482 Cr.P.C. to call for the records in C.C.No.31 of 2015 on the file of the Judicial Magistrate No.III, Vellore, Vellore District and quash the same.

For Petitioner : Mr.M.Sathish Kumar

For R1 : Mr.C.Emalias,  
Addl.Public Prosecutor

ORDER

This petition has been filed to call for the records in C.C.No.31 of 2015 on the file of the Judicial Magistrate No.III, Vellore, Vellore District and quash the same.

2. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor appearing for the State.

3. It is the case of the defacto complainant that she belongs to Dalit community and that she was in love with Vinoth Kumar [A1] who hails from an upper caste. Vinoth Kumar [A1] promised to marry Saranya [defacto complainant] and they had physical affair on the promise of marrying her. Ultimately, Vinoth Kumar [A1] took Saranya [defacto complainant] and had the marriage registered on 14.03.2014 before the Sub Registrar, Katpadi. Thereafter, they kept the marriage secret. Saranya [defacto complainant] continued to live with her parents.

4. It is the case of the prosecution that Vinoth Kumar [A1] got married to Arulmozhi [A2] on 05.06.2014 and coming to know of it, Saranya lodged a complaint, based on which a case in Cr.No.192 of 2014 under Sections 494, 498A and Section 4 of Dowry Prohibition Act was registered by the respondent police and after completing the investigation, Final Report was filed in C.C.No.31 of 2015 before the learned Judicial Magistrate - III, Vellore against Vinoth Kumar [A1] and Arulmozhi [A2]. The respondent police filed a counter, wherein it is stated as follows in paragraphs 3 to 7:

"2. It is submitted that Tmt.Saranya/defacto complainant herein had preferred a complaint before the Superintendent of Police, Vellore district stating that she belongs to Adi Dravidar caste and she had love affair with one Vinoth Kumar [A1] and they both got married on 14.03.2014 at Sub Registrar Office, Katpadi and registered their marriage vide No.Marriage SI.No.32/2014 dated 14.3.2014. After the marriage, as per the advice of Vinoth Kumar, the defacto complainant stayed at her parental house. While so, 11.6.2014, Vinoth Kumar came to the defacto complainant's parent's house and informed that his family members are refused to accept her, because she belongs to Scheduled Caste and he further stated that his family members conducted second marriage to him with one Arulmozhi [A2] after receiving gold jewels and cash as dowry. Further, the said Vinoth Kumar demanded if the defacto complainant will give 50 sovereigns of gold and cash Rs.5 lakhs as dowry he will lead matrimonial life with her, and also given life threat to her. Subsequently, the complainant enquired about his husband's second marriage at his village and informed that is true. Hence, this complaint.

3. It is submitted that based on the complaint, a case was registered in Katpadi P.S. Women Wing, Viruthampat P.S. Crime No.192 of 2014, u/s 494, 506(i) and Sec.4 of Women Harassment Act, 2002 on 24.6.2014 at 19.00 hours against A1 & A2 by Tmt.P.Udhayakumari, the then Special Sub Inspector of Police and taken up the case for investigation.

4. It is submitted that during the course of investigation, the then Special Sub Inspector of Police had examined the

following witnesses and recorded their statements:

- (i) Tmt.Saranya - Defacto complainant
- (ii) Tmt.Rajeswari - Mother of the defacto complainant
- (iii) Tr.Manimaran - Father of the defacto complainant
- (iv) Tr.Deivasigamani - Family friend of defacto complainant
- (v) Tr.Lourthu Nathan - Panchayatar
- (vi) Tr.Kumar - Family friend of defacto complainant

Witnesses 1 to 6 corroborated the same version of the complaint.

5. It is submitted that on the same day i.e. 24.6.2014 at about 21.00 hours at Chittur Bus stand, Katpadi, the then Special Sub Inspector of Police arrested the accused Vinoth Kumar [A1] and he was produced before the Judicial Magistrate No.III, Vellore and confined into Central Prison, Vellore.

6. It is submitted that Tmt.Janarthanani, the then Sub Inspector of Police had taken further investigation of this case, and examined the following witnesses:

- (i) Tr.Jayaraman - Manager of Suseelambal Loganathan  
Mudaliar Thirumana Mandapam,  
Vaduganthangal
- (ii) Tmt.Saraswathi - Same villager of defacto complainant
- (iii) Tr.Francis- Employee of T.R.Residency Hotel at Thiruvalam
- (iv) Tr.Arul Pandian - Same villager of defacto complainant
- (v) Tmt.Bhahitha - District Social Welfare Officer, Vellore.

1st witness speaks about that on 5.6.2014 at about 7.30 a.m. to 9.00 a.m., the marriage between Vinoth Kumar and Arulmozhi was took in his Kalayana mandapam.

2nd witness speaks about that on 7.3.2014, the defacto complainant and Vinoth Kumar got love marriage at Poongavanathamma Kovil, Karanampattu.

3rd witness speaks about that on 7.3.2014, 9.3.2014 & 14.3.2014, the defacto complainant and Vinoth Kumar was stayed at his hotel and they paid rent of Rs.300 per day for room.

4th witness speaks about that on 7.3.2014, the defacto complainant and Vinoth Kumar got love marriage at Poongavanathamma Kovil, Karanampattu after that they went to the Sub Registrar Office, Katpadi and registered their marriage and 4th witness attested his signature on the side of Vinothkumar as witness.

5th witness, who is the District Social Welfare Officer, Vellore speaks about that based on the requisition of the respondent police, she conducted enquiry before the defacto complainant, but she informed that she will face this dispute before the Court.

7. It is submitted that during the pending investigation, on 24.12.2014, Arulmozhi [A2] surrendered before the Judicial Magistrate No.III, Vellore and she was remanded into judicial custody."

5. Challenging the Final Report, Arulmozhi [A2] is before this Court.

6. Learned counsel for Arulmozhi contended that Arulmozhi never knew about her husband's love affair with Saranya and her marriage with Vinoth Kumar [A1] was an arranged one. The betrothal was held on 05.03.2014 and the marriage date was fixed to 05.06.2014. In the meantime, Vinoth Kumar [A1] appears to have taken Saranya/defacto complainant and registered their marriage on 14.03.2014, which was not known to Arulmozhi [A2] and her family members. Had she known about it, she would not have got married to Vinoth Kumar [A1] on 05.06.2014.

7. This Court perused the Final Report and the statements recorded by the police. It is no doubt true that Vinoth Kumar [A1] had promised Saranya that he will get married to her and he seems to have had physical affair with her and has also registered the marriage on 14.03.2014 without anyone's knowledge. Even according to Saranya/defacto

complainant, after marriage, she went and lived with her parents. Thus, there are no materials to show that Arulmozhi [A2] knew about Vinoth Kumar's marriage with Saranya/defacto complainant. Now it appears that Arulmozhi [A2] and Vinoth Kumar [A1] are estranged and Arulmozhi is living with her parents. Under such circumstances, there is sufficient force in the submission of the learned counsel for Arulmozhi [A2] that her prosecution for offences under Section 494 and 498-A IPC along with Vinoth Kumar [A1] is an abuse of process of law.

In the result, this petition is allowed and the proceedings against Arulmozhi [A2] in C.C.No.31 of 2015 in Cr.No.192 of 2014 pending on the file of the learned Judicial Magistrate-III, Vellore is hereby quashed. Consequently, connected miscellaneous petitions are closed.

Sd/-  
Asst.Registrar (CS IV )

/true copy/

Sub Asst. Registrar

gms

To  
1.The Inspector of Police  
Viruthampat Police Station  
Women Wing  
Vellore  
Vellore District.

2.The Judicial Magistrate No.III,  
Vellore, Vellore District.

3.The Public Prosecutor,  
High Court, Madras.

+1 cc to M/s.M.Sathishkumar, Advocate, sr.54967

Cr1.OP No.23250 of 2015

mp co  
kra 04/11/2015