

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 06.08.2015

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

CRL.OP.No.3452 of 2015

and

MP.No.1 of 2015

1.R.Manikandan
2.Rajamanickam
3.Gajalakshmi

...Petitioners

Vs

P.Maheswari

...Respondent

Criminal Original Petition filed under Section 482 of Cr.P.C., praying to call for the records in DVOP.No.72 of 2014 pending before Hon'ble Additional Mahila Court [Fast Track], Salem, quash the same.

For Petitioners : Mr.Jemmy Vasanth

ORDER

This petition has been filed to quash the proceedings in DVOP.No.72 of 2014 pending before Hon'ble Additional Mahila Court [Fast Track], Salem.

2. Heard the learned counsel for the petitioners and perused the materials placed on record.

3. It is seen that the 1st petitioner got married to the respondent herein on 26.11.2012 and after marriage, their matrimonial life ran into rough weather. The 1st petitioner filed FCOP.No.517 of 2013 for divorce before the Family Court, Salem. After the filing of the divorce proceedings, it came to the knowledge of the 1st petitioner that the respondent was earlier married to one Alagesan, as early as on 29.10.2010 and that marriage was also registered before the registration authorities.

4. On coming to know of this, the 1st petitioner lodged a private complaint against the respondent, which was taken on file as CC.No.3197 of 2014 and referred to the Police for investigation under Section 156[3] Cr.P.C. The police registered a case in crime No.389 of 2014 for the offences under Section 120[B] and 420 IPC against the respondent herein and her family members for having suppressed the first marriage with Alagesan and marrying the 1st petitioner herein. Only thereafter, the respondent initiated Domestic Violence proceedings in DVOP.No.72 of 2014 before the Additional Mahila Court [FTC], Salem, challenging which, the petitioners are before this Court.

5. Learned counsel for the respondent submitted that the respondent has disclosed the factum of the earlier marriage in the petition in DVOP.No.72 of 2014 and that she has not suppressed anything. He also contended that the said marriage was declared as null and void by a decree in OS.No.25 of 2011 passed by the Family Court, Salem. Learned counsel also submitted that the respondent disclose all these facts to the petitioners and only thereafter, the marriage with the 1st petitioner was solemnised in the year 2012.

6. Now, it has to be seen that whether there was any suppression on the part of the respondent about this fact.

7. Learned counsel for the petitioner submitted that, had the petitioners known about the factum of the earlier marriage, they would have mentioned it, even in the divorce proceedings in FCOP.No.517 of 2013.

8. There is some force in the submission of the learned counsel for the petitioner. Had the suppression of the first marriage come to light before filing of FCOP.No.517 of 2013, that would have been definitely mentioned in the divorce petition. The petitioners came to know about the first marriage only subsequently and that is why, the 1st petitioner lodged a private complaint before the learned Judicial Magistrate, based on which, FIR in crime No.389 of 2014 was registered only on 02.11.2014.

9. After the registration of the FIR, the respondent has filed the domestic violence proceedings making allegations against the petitioners herein, which in the considered opinion of this Court is clearly an abuse of process of law. It is also admitted that divorce proceedings are still pending in FCOP.No.517 of 2013 before the Family Court, Salem.

In view of the above, this petition is allowed and the proceedings in DVOP.No.72 of 2014 are quashed. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar (CS-II)

//True Copy//

Sub Assistant Registrar

gya

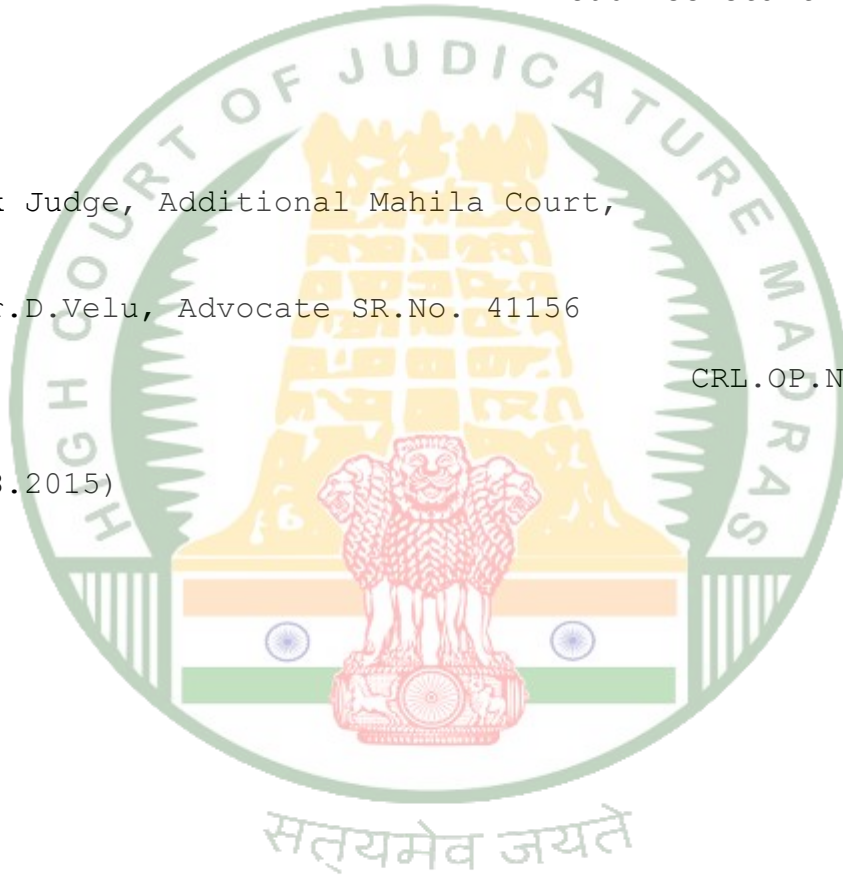
To

Fast Track Judge, Additional Mahila Court,
Salem.

1 CC to Mr.D.Velu, Advocate SR.No. 41156

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GP (CO)
PSI (21.08.2015)



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