

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 14.07.2016

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THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

CRL.OP.No.12406 of 2016

and CRL.MP.Nos.6404 & 6405 of 2016

Eskedar Abera Amemie ... Petitioner

Vs

1.State of Tamil Nadu rep by
Station House Officer,
All Women Police Station,
Vridhachalam,
Cuddalore District.

2.Santhosh Kumari ... Respondents

Criminal Original Petition filed under Section 482 of Cr.P.C., praying to call for the records relating to the charge sheet in CC.No.86 of 2013 pending on the file of the learned Judicial Magistrate-I, Vridhachalam and quash the same as against the petitioner.

For Petitioner : Mr.Suchit Anant Palande

For 1st Respondent : Mr.C.Emalias, APP

For 2nd Respondent :

Mr.F.Terry Chella Raja

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O R D E R

This petition has been filed to quash the charge sheet in C.C.No.86 of 2013 pending on the file of the Judicial Magistrate Court-I, Vridhachalam.

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

3. On the complaint lodged by Santhosh Kumari, the respondent Police have registered a case in Crime No.1 of 2013 and after completing investigation, filed a final report in C.C.No.86 of 2013 before the learned Judicial Magistrate-I, Vridhachalam for offences under Section 498[A], 494, 406 and 506 [ii] IPC r/w Section 109 IPC against one Simon Raja [A1], Ramasamy [A2], Manikannu [A3] and the petitioner herein/Eskedar Abera Amemie [A4], challenging which, the petitioner is before this Court.

4. The case of the prosecution is that Simon Raja got married to Santhosh Kumari on 30.10.2005 and they have two children through the wedlock. It is alleged that Simon Raja [A1], Ramasamy [A2] and Manikannu [A3] inflicted cruelty on Santhosh Kumari and they are illegally retaining the sreedhana articles and jewels belonging to Santhosh Kumari. Apart from this allegation, it is alleged by the prosecution that Simon Raja [A1] has married Eskedar Abera Amemie/petitioner and therefore, a charge under Section 494 IPC has also been included. Apart from this charge, there is no other allegation as against the petitioner.

5. The short point that falls for consideration is that the petitioner herein be prosecuted for the offence under Section 494 IPC r/w Section 109 IPC in the facts and circumstances of this case.

6. Admittedly, Eskedar Abera Amemie/petitioner is not an Indian citizen, but an Ethiopian citizen. Nowhere in the final report or in the document relied upon by the prosecution, it is stated, as to when and where Simon Raja got married to Eskedar Abera Amemie.

7. Learned Additional Public Prosecutor produced a photocopy of a Marriage Certificate from the Case Diary, a perusal of which, shows that Simon Raja has married Eskedar Abera Amemie/petitioner on 26.11.2012 in Dessi in Ethiopia.

8. As stated above, Eskedar Abera Amemie/petitioner is not an Indian citizen and The Indian Penal Code will not extend to her. That apart, the alleged marriage is said to have taken place in Ethiopia, for which, apart from the photocopy of the Marriage Certificate found in the Case Diary, there is no other material worth its salt.

9. Under such circumstances, this Court is of the view that the prosecution of Eskedar Abera Amemie is an abuse of process of law and accordingly, this petition is allowed and the proceedings in C.C.No.86 of 2013 on the file of the learned Judicial Magistrate-I, Vridhachalam is hereby quashed as against the petitioner. The trial Court is directed to proceed with the

trial with regard to other accused and complete the same within a period of six months from the date of receipt of a copy of this order. Consequently, connected Miscellaneous Petitions are closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assitant Registrar

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To

1.The Judicial Magistrate-I,
Vridhachalam.

2.The Station House Officer,
All Women Police Station,
Vridhachalam,
Cuddalore District.

3.The Public Prosecutor,
High Court, Madras.

+1 cc to M/s.SuchiAnant Palande Advocate sr.39831

+1 cc to M/s.F.Ferry Advocate sr.39621

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