

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 31.03.2016

PRONOUNCED ON : 15.04.2016

CORAM

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No.21268 of 2015

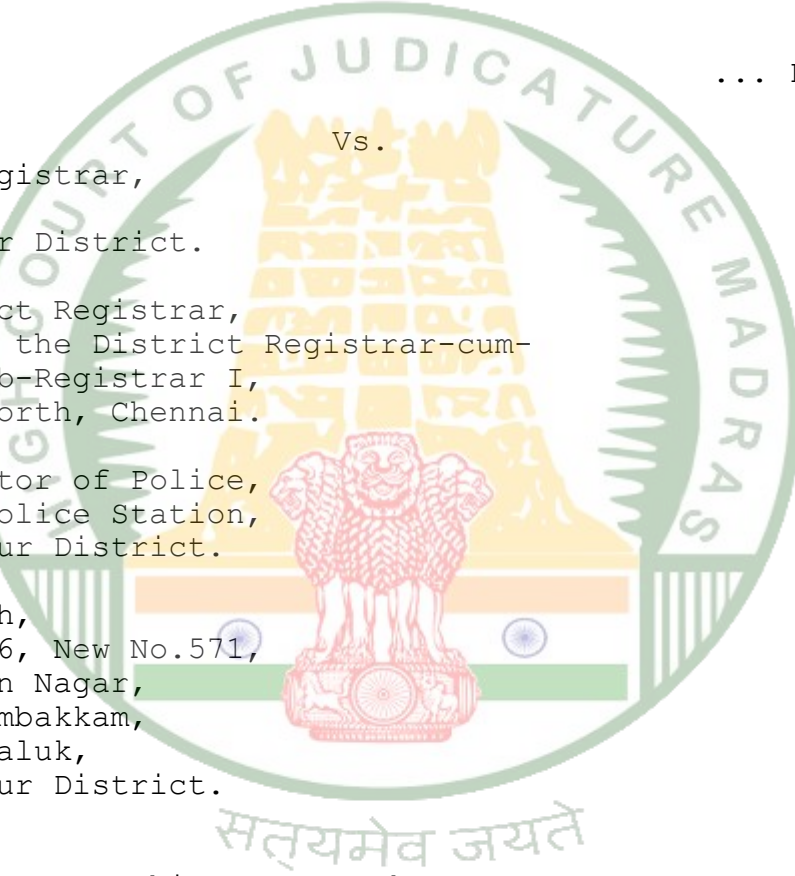
M.Bharathi

... Petitioner

Vs.

- 1.The Sub-Registrar,
Ponneri,
Thiruvallur District.
- 2.The District Registrar,
Office of the District Registrar-cum-
Joint Sub-Registrar I,
Chennai North, Chennai.
- 3.The Inspector of Police,
Ponneri Police Station,
Thiruvallur District.
- 4.P.N.Vignesh,
Old No.566, New No.571,
Ponnamman Nagar,
Thadaperumbakkam,
Ponneri Taluk,
Thiruvallur District.
- 5.The Manager, J.P.Thirumana Mandapam,
No.13, Hathaullasha Street,
Ponneri-601 204.
- 6.Dhananjayan,
S/o.Haribabu,
No.8, Dharmalingam Street,
Periyakavanam,
Ponneri Taluk,
Thiruvallur District.

... Respondents



Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, to call for the records in Letter No.185/2015, dated 06.07.2015 on the file of the 2nd respondent and to quash the same and further, to direct the 1st respondent to cancel the registration of the marriage between the petitioner and the 4th respondent dated 08.06.2015 in Marriage Registration Certificate No.40/2015 on the file of the 1st respondent.

For Petitioner : Mrs.R.Sudha

For respondents : Mr.V.Jayaprakash Narayanan, Spl.GP
(For R1 to R3)

Mr.K.Surendranath (For R4)

* * * * *

ORDER

This writ petition has been filed by the petitioner, praying for issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the Letter No.185/2015, dated 06.07.2015, on the file of the 2nd respondent and to quash the same and further, to direct the 1st respondent to cancel the registration of the marriage between the petitioner and the 4th respondent dated 08.06.2015 in Marriage Registration Certificate No.40/2015 on the file of the 1st respondent.

2.In the affidavit filed in support of the writ petition, it has been averred by the petitioner, inter alia, as follows:-

2-1.The petitioner is working as an apprentice in TNEB, Thatchur Kootu Road, Ponneri, Thiruvallur District. The petitioner came into contact with the 4th respondent herein, through Facebook. After exchange of phone numbers, they started talking to each other. During their conversation, the 4th respondent projected himself as well behaved gentleman. Based on the same, the petitioner believed him as her good friend, philosopher and guide. Over the period, the petitioner and the 4th respondent started moving closely as friends.

2-2.As the petitioner was planning to go abroad for a job, the petitioner wanted to get a passport. At that time, the 4th respondent represented that he would help the petitioner in getting a passport and he asked the petitioner to give her family card and voters identity card, for the purpose of getting the passport for her.

2-3. After some time, the 4th respondent started to show his true colour, by forcing the petitioner for marriage, for which the petitioner was not interested. Because of her refusal, the 4th respondent started to threaten the petitioner saying that he would expose the photographs of them in the Facebook, a social media. On several occasions, the petitioner pleaded him not to do the same. Over the period, the threat has been becoming more frequent. The 4th respondent threatened the petitioner, saying that he would do away with the lives of the petitioner's family members; he would also pour acid and disfigure her face; he would commit suicide leaving behind a suicidal note. The petitioner was so worried and she was not in a position to take any decision.

2-4. While so, on 08.06.2015, when the petitioner was on her way to office, the 4th respondent intercepted her and forcibly took her to the office of the 1st respondent (Sub-Registrar, Ponneri), wherein more than 10 members of his friends were assembled. The 4th respondent asked the petitioner to sign some papers; however, the petitioner initially refused to do so. But, the 4th respondent threatened the petitioner stating that he would pour acid on her face which was readily available with him and he would also commit suicide in the office of the 1st respondent itself. When the petitioner wanted to read the papers, the 4th respondent did not permit her to read and he forced the petitioner to sign the papers. When the petitioner refused to sign, once again the 4th respondent threatened her stating that he would post the photos taken by him with her in the facebook. As she had no other choice except to sign the papers, the petitioner also signed some papers before the 1st respondent. After returning to house, the petitioner was afraid to disclose the incident to her parents. The petitioner came to know that the 4th respondent is not a person of good morals and values and he is not a man of virtue as he projected. Thereafter, the 4th respondent started to quarrel with the petitioner and asked her to come and live with him. As the pressure has been mounting, the petitioner informed her parents about the threat caused by the 4th respondent. Thereafter, on 19.06.2015, the petitioner along with her father went to the office of the 1st respondent and applied for the certified copy of the marriage registration and other documents. On obtaining the documents, to her shock and surprise, the petitioner found an invitation dated 04.06.2015, in which it was printed as if the petitioner married the 4th respondent in the 5th respondent's Kalyana Mandapam. The petitioner also found a fake letter given by the 6th respondent stating that the marriage was solemnized by him in the 5th respondent's Kalyana Mandapam. The very date of the said letter is 08.05.2015, in which the 6th respondent has stated that the marriage was solemnized on 04.06.2015 in his presence. The letter dated 08.05.2015 given by the 6th

respondent is one month prior to the alleged marriage on 04.06.2015.

2-5. The petitioner had also approached the 5th respondent's Kalyana Mandapam. The 5th respondent has clarified and gave a letter to the petitioner's father about the marriage which originally took place between the couples by name D.Meena and R.Sathish on 04.06.2015. The 5th respondent further stated that other than the said marriage, no other marriage had taken place on that day. After coming to know about the registration of the marriage with the fake documents, the petitioner gave a representation dated 25.06.2015 to the official respondents to cancel the registration of the marriage on the ground that no such marriage took place between the petitioner and the 4th respondent. But, the 2nd respondent has passed the impugned order dated 06.07.2015 vide Letter No.185/2015, rejecting the representation of the petitioner. Hence, the petitioner has come forward with the present writ petition before this Court for the relief as stated supra.

3. When the matter was taken up for consideration, the learned counsel for the petitioner submitted that the alleged marriage was registered by the SRO, Ponneri, based on the fake letter given by the 6th respondent stating as if the marriage between the petitioner and the 4th respondent was solemnized by him on 04.06.2015 in the 5th respondent's Kalyana Mandapam; whereas on the date, which was written in the marriage certificate, the marriage between one D.Meena and R.Sathish was solemnized in the 5th respondent's Kalyana Mandapam. Under such circumstance, by considering the said facts, the 2nd respondent ought to have cancelled the said marriage certificate. But, the 2nd respondent rejected the request of the petitioner to cancel the said marriage certificate. Thus, the learned counsel for the petitioner submitted that by quashing the impugned order, appropriate direction could be given to the official respondents to cancel the marriage certificate. In support of his contentions, the learned counsel for the petitioner has also invited the attention of this Court to Sections 5 to 8 of of Tamil Nadu Compulsory Registration of Marriage Act 2009 and submitted that the alleged marriage was not in conformity with the said provisions; therefore, the marriage certificate is liable to be quashed.

4. Per contra, the learned counsel for the 4th respondent, by filing a detailed counter, submitted that the petitioner and the 4th respondent liked each other and at the instance of the petitioner only, an auspicious day for the marriage was fixed, after consulting an astrologer. On that day, the petitioner and the 4th respondent married each other in the presence of the well-wishers by exchanging the garlands; thus, the marriage was solemnized between the petitioner and the 4th respondent. Since

the Tamil Nadu Registration of Marriage Act, 2009, was enacted making all the marriages compulsorily to be registered, the petitioner and the 4th respondent jointly made an application to the 1st respondent, requesting the authority to register the marriage that took place between the petitioner and the 4th respondent. Along with the application for registration, the necessary documents of the petitioner and the 4th respondent were also annexed. The 1st respondent after verifying the application and the documents, registered the marriage that took place between the petitioner and the 4th respondent. All the documents belonging to the petitioner and necessary for the purpose of the registration of the marriage were willingly furnished by the petitioner along with the application on her own volition to support the statements. Now, the allegation of the petitioner that the 4th respondent had threatened the petitioner to marry him is utter falsehood. Because of the threat made by her family members, now the petitioner is making incorrect statements. Further, the learned counsel for the 4th respondent has submitted that the petitioner has already filed a Original Petition in O.P.No.4032 of 2015 before the Family Court at Chennai and the same is pending. When the OP is pending before the Family Court, now the present writ petition is not maintainable. Thus, the learned counsel for the 4th respondent sought for dismissal of the writ petition.

5. In reply, the learned counsel for the petitioner submitted that the said OP is pending for declaration of the marriage between the petitioner and the 4th respondent is null and void. But, the present writ petition has been filed only to cancel the registration of the marriage certificate, since the 4th respondent by producing the fake letter/certificate said to have been issued by the 6th respondent, got the registration of the marriage. Therefore, the scope of the writ petition is totally different. In this regard, the learned counsel for the petitioner has also produced number of judgments, whereing this Court has given direction to the Registering authority to conduct an enquiry and to pass appropriate order with regard to cancellation of marriage certificate.

6. The learned Special Government Pleader appearing for the official respondents has also made his submissions in support of the impugned order passed by the 2nd respondent.

7. Heard both sides and perused the materials available on record.

8. From the perusal of the said judgments relied upon by the learned counsel for the petitioner, I find that in the said cases, no proceedings were pending before the Family Court. But, in the instant case, the petitioner has already approached

the Family Court by filing O.P.No.4032 of 2015. The prayer made in the said OP reads as follows:-

"to declare the alleged marriage held on 08.06.2015 on the file of SRO, Ponneri in No.40/2015 as null and void on the ground that the registration was under the compulsion without the full and free consent of the petitioner, the marriage dated 04.06.2015 was not solemnized between the petitioner and the respondent and also the marriage was not in conformity with the Sec.5 and 8 of Tamil Nadu Compulsory Registration of Marriage Act 2009."

A perusal of the above said prayer made in the OP would show that even in the said OP, the petitioner is asking to declare the marriage between the petitioner and the 4th respondent registered by the SRO, Ponneri is null and void. In the present writ petition, the petitioner is seeking to quash the marriage registration certificate No.40/2015. Therefore, I am of the opinion that the prayers made in the OP and the present writ petition are almost one and the same. It is well settled legal principal that there cannot be two parallel proceedings in respect of the same issue at the same time. In this regard, it would be appropriate to place reference in the decision of this Court in W.P.(MD).No.10679 of 2014, dated 19.08.2015 (G.Faridha Begum Vs. The Inspector General of Registration and others), wherein this Court held that the writ petition cannot be entertained when the petitioner has already filed a civil suit in which the same relief has been sought for. The said decision is squarely applicable to the present facts of the case also. In the instant case, since the petitioner has already approached the Family Court, she has to work out is remedy only before the Family Court. Hence, the writ petition cannot be entertained and the same is liable to be dismissed.

In fine, the writ petition is dismissed. No costs.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

SSV

To,

1.The Sub-Registrar,
Ponneri,
Thiruvallur District.

2.The District Registrar,
Office of the District Registrar-cum-
Joint Sub-Registrar I,
Chennai North, Chennai.

3.The Inspector of Police,
Ponneri Police Station,
Thiruvallur District.

+1 cc to Government Pleader sr.23872

+1 cc to M/s.K.Surendranath Advocate sr.23980

+1 cc to M/s.T.K.R.Sudha Advocate sr.23604

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