

In the High Court of Judicature at Madras

Dated : 22.02.2016

Coram

The Honourable Mr.Justice R.SUBBIAH

**W.P.No.25431 of 2014
and
M.P.No.1 of 2014**

I.Indumathi

.... Petitioner

..VS..

1.The Sub-Registrar,
Sub-Registrar Office,
Royapuram,
Chennai-600 013.

2.Mr.H.Md.Ghouse,
Old No.15, New No.88, Mosque Street,
Royapuram,
Chennai-600 013.

3.S.Shankar,
S/o.Shanmugam,
New No.132/1, Old No.59M, West Mada Street,
Vivekananda Nagar,
Tiruvottiyur, Chennai-600 019.

4.The Bar Council of Tamil Nadu,
Chennai-104.
(R4 suo motu impleaded as per order
dated 28.07.2015)

...Respondents

Writ Petition has been filed under Article 226 of the Constitution of India, praying for issuance of a writ of Certiorari calling for the records on the file of the 1st respondent in Form-III – Certificate of

Registration of Marriage dated 15.07.2013 entered at Serial No.1509 of 2013 of Registrar of Marriage maintained under the Tamil Nadu Registration of Marriages Act, 2009 and to quash the same, as being without jurisdiction and authority of law, illegal and invalid.

For Petitioner : Mr.R.Senniappan

For Respondents : Mr.P.Sanjay Gandhi, AGP (For R1)
Mr.R.Narendran (For R2)
Mr.A.Thiagarajan(For R3)
Mr.S.Y.Majood (For R4)

* * * * *

ORDER

This writ petition has been filed by the petitioner praying for issuance of a writ of Certiorari calling for the records from the file of the 1st respondent in Form-III – Certificate of Registration of Marriage dated 15.07.2013 entered at Serial No.1509 of 2013 of Registrar of Marriage maintained under the Tamil Nadu Registration of Marriages Act, 2009 and to quash the same, as being without jurisdiction and authority of law, illegal and invalid.

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

2-1.After completion of her school education, the petitioner continued her higher studies by joining B.A., Degree course in Quid-e-Millet Government Arts College, Chennai, in the academic

year 2009-2010. For attending the college, the petitioner used to travel in Chennai Metropolitan Transport Corporation Bus. Taking advantage of the lonely travel of the petitioner, the 3rd respondent herein used to make travel in the same bus very often, with obsessive attention; but, the petitioner could not think of the reason as to why he was making travel in the same bus. By knowing the cell phone number of the petitioner, the 3rd respondent made calls to the petitioner's cell phone number often and made sexual advancement. At one stage, when the petitioner was in the third year of B.A. Degree, the 3rd respondent made known his evil designs to get her married. As the harassment of the 3rd respondent continued as a stalker, the petitioner had even decided to discontinue her studies in the college. However, the petitioner managed to complete her studies in the college with the advise and persuasion of her parents. Even after completion of her studies in the above said college, the 3rd respondent was causing sexual harassment to the petitioner by making phone calls to her cell phone number. The petitioner understanding the evil designs of the 3rd respondent had avoided attending his phone calls on several occasions. At one stage, the 3rd respondent resorted to indulge in blackmail saying that if the petitioner does not attend his phone calls, he would inform her parents and assassinate her character. Because of the fear of threat and blackmail from the 3rd respondent, the petitioner did not reveal

anything to her parents about his evil designs. The 3rd respondent had even threatened the petitioner stating that if she does not give consent to marry him, he would completely ruin her future life.

2-2. While so, on 15.07.2013, the 3rd respondent called the petitioner over phone and compelled her to come to a place at Thiruvotriyur to have discussion on an important matter, failing which she would have to face serious consequences. Fearing the threat and blackmail of the 3rd respondent, the petitioner went to the place, where she was compelled to come at 9.30 am on 15.07.2013 on her way to a private school, where she was employed as a teacher. When the petitioner reached the spot, the petitioner was forcefully taken in a motor cycle accompanied by his friends to a tea stall in Second Line Beach Road, Chennai and he asked her to wait till he comes back. Then, the 3rd respondent came to the tea stall along with his friends around either members and forcibly asked the petitioner to sign certain documents which were found to be blank. Because of the fear for unknown reason, the petitioner could not ask anything about the happenings there. After obtaining the signature of the petitioner under compulsion and coercion, the petitioner was forcibly taken to the office of the 1st respondent, where she was asked to put her signature and affix her thumb impression in the register shown to her. Without understanding as to what was happening to her, the

petitioner signed the Register and affixed thumb impression. In the office of the 1st respondent, no enquiry was made by the officials employer there. All had happened in the office of the 1st respondent was a stage managed one.

2-3. After coming out of the office of the 1st respondent, the petitioner made an attempt to escape from the 3rd respondent and his friends, but the 3rd respondent took the petitioner to a temple in Triplicane at around 12.30 pm along with his friends where he compelled her to exchange garlands. The petitioner has refused to get the garlands exchanged. However, because of the threat and coercion caused to her by the 3rd respondent and his friends, the petitioner exchanged the garlands with the 3rd respondent knowing fully well that she was doing against her will and conscience. Thereafter, the 3rd respondent took the petitioner forcibly on the motor cycle and proceeded to his house in Thiruvottiyur at around 2.30 p.m and attempted to molest the petitioner. When the petitioner resisted and made alarming call, the neighbours came there. On seeing the neighbours, the 3rd respondent stopped his attempt to molest the petitioner. Then, the 3rd respondent sent the petitioner to her house through a share auto with a stern warning that she would not reveal anything to anybody about what had happened on 15.07.2013 at least for a period of one year. Fearing the threat and

blackmail of the 3rd respondent, the petitioner did not reveal anything about the undesirable incidents that took place on 15.07.2013. Taking advantage of her submissive attitude, the 3rd respondent used to make calls to the cell phone of the petitioner. While so, on 07.02.2014 at around 10.00 am, the parents and certain relatives of the 3rd respondent came to the house of the petitioner and sought marriage alliance of the petitioner with the 3rd respondent in the presence of the father of the petitioner, without telling anything about the illegal registration of the alleged marriage which in fact did not take place on 15.07.2013. But, the father of the petitioner has bluntly refused to the proposal of the parents of the 3rd respondent.

2-4. Thereafter, the 3rd respondent contacted the husband of the petitioner's elder sister viz., one Kannan and informed him about the alleged registered marriage with the petitioner. In this regard, the said Kannan sought for the documents proving the alleged registered marriage that had taken place between the petitioner and the 3rd respondent. The 3rd respondent communicated the documents on the alleged registered marriage to the said Kannan who then gave the documents i.e, Certificate of Marriage containing false information and the certificate for registration of the alleged marriage issued by the 1st respondent. On seeing the documents, which were shown to her for the first time, the petitioner was shocked as the certificate of

marriage was a bogus one, basing on which the 1st respondent issued certificate of registration of the alleged marriage. Then only, the petitioner realized as to why she was abducted to a tea stall in Second Line Beach Road, Chennai on 15.07.2013, where she was threatened to sign the blank documents and then taken to the office of the 1st respondent, where she was compelled to put her signature and affix her thumb impression in the register shown to her by the officials of the registration office without making any enquiry.

2-5.It is further stated by the petitioner that the petitioner was very much shocked on seeing the certificate issued by the 2nd respondent stating that the Hindu Marriage was solemnized between Selvan.S.Shankar S/o.Shanmugam residing at No.54, Masthan Kovil Street, Thiruvottiyur, Chennai and Selvi.Indumathi.I. D/o.Inbasekar residing at No.10/518.5, Village Street, Thiruvottiyur, Chennai, on 15.07.2013 in his presence and the bridegroom and bride are garlanding themselves at No.88/15, Moseque Street, Royapuram, Chennai under Section 7(a) of Hindu Seerthirutha Marriage Customary Act". Hence, the petitioner has come forward with the present writ petition seeking to quash the said marriage registration certificate.

3.The 3rd respondent has filed a counter, denying the allegation made by the petitioner, stating *inter alia* that the petitioner

has made serious character assassination and she projected the 3rd respondent as a male chauvinist to escape from acts she had done. Further, the 3rd respondent and the petitioner fell in love with each other. The petitioner informed the 3rd respondent that she feared of getting marriage to some other person by her parents and she compelled the 3rd respondent to make arrangements for registered marriage. Hence, on 15.07.2013, the 3rd respondent and the petitioner exchanged garlands in accordance with Section 7A of the Hindu Marriage Act, in the presence of the 2nd respondent and they registered their marriage on the same day before the 1st respondent; but, now on the compulsion, force and coercion of her parents and relatives, the petitioner is making false allegations against the petitioner. Thus, the 3rd respondent sought for dismissal of the writ petition.

4.The 2nd respondent has also filed a counter stating that the petitioner had approached him for the solemnization of her marriage with the 3rd respondent. It was represented by the petitioner that she and the 3rd respondent are from different castes and their parents would not accept their marriage. The 3rd respondent has not exercised any force or coercion on the petitioner. She was not at all compelled to do anything against her will. The alleged marriage was solemnized between the petitioner and the 3rd

respondent with her full knowledge and consent. The petitioner is concealing the facts before the Court and filed the present writ petition on the coercion of her parents and relatives. Thus, the 2nd respondent sought for dismissal of the writ petition.

5. When the matter is taken up for consideration, the learned counsel for the petitioner submitted that in the present case, the marriage was conducted only in the Advocate's office and the certificate of solemnization issued by the Advocate will not be a proof for solemnization of marriage. When that being the position, the 1st respondent ought to have refused to register the marriage. In this regard, the learned counsel for the petitioner relied upon Section 7 of the Tamil Nadu Registration of marriage Act, 2009 and submitted that only after satisfying himself that there is no objection to the marriage, the Registrar is entitled to register the marriage. But, in the instant case, no such verification was done by the Registrar before registering the marriage. Therefore, according to the petitioner, the impugned registration of the marriage is liable to be set aside and the matter shall be remanded back to the Registrar for fresh consideration. In support of this contentions, the learned counsel for the petitioner relied upon the decision of the Division Bench of this Court reported in **(2014) 7 MLJ 651 [S. Balakrishnan Pandiyan Vs. Superintendent of Police]** wherein it has been held that a

marriage conducted in secrecy with few strangers around, be it Suyammariyathai form, will not amount to solemnization, as required under Section 7 and 7A of the Hindu Marriage Act.

6. Without admitting the allegations made in the writ petition, the learned counsel for the respondents 2 & 3 submitted that they have no objection for remanding the matter to the Registrar for fresh consideration.

7. Heard the learned Special Government Pleader appearing for the 1st respondent also, who has also no objection for remanding the matter.

8. Considering the facts and circumstances of the case and in view of the submissions made on either side, this Court passes the following order_

*The impugned Certificate of Registration of Marriage dated 15.07.2013 is hereby set aside and the matter is remanded back to the 1st respondent, with a direction to pass appropriate orders by conducting enquiry in the light of the directions given by the Division Bench of this Court in **(2014) 7 MLJ 651 [S.Balakrishnan Pandiyan Vs. Superintendent of Police]**, within a period of four weeks from the date of receipt of a copy of this order.*

With the above terms, the writ petition is allowed.
Consequently, connected Miscellaneous Petition is closed. No costs.

22.02.2016

Internet : Yes / No

Index : Yes / No

ssv

NOTE:- Issue Today (02.03.2016)

To

1.The Sub-Registrar,
Sub-Registrar Office,
Royapuram,
Chennai-600 013.

R.SUBBIAH, J.,

SSV

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and
M.P.No.1 of 2014

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