

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.10.2016

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Crl.O.P. No.23031 of 2016

and Crl.M.P.Nos.10811 and 10812 of 2016

1.S.Raja

2.K.Somasundaram

3.S.Kannammal

4.S.Kavitha

5.P.Chezhan

Petitioners

Vs

1.The Inspector of Police
All Women Police Station
Paramathi Velur
Namakkal District.

2.D.Malathi

Respondents

Prayer:- Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records of the FIR in Cr.No.2 of 2016 on the file of the Inspector of Police, All Women Police Station, Paramathi Velur, Namakkal District and to quash the same in view of the proceedings on the petitioners as accused 1 to 5.

For petitioners : Mr.N.Theenadayalan

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

O R D E R

This petition has been filed to call for the records of the FIR in Cr.No.2 of 2016 on the file of the Inspector of Police, All Women Police Station, Paramathi Velur, Namakkal District and to quash the same.

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

3. For the sake of convenience, the parties will be referred to by their name.

4. Raja married Malathi on 22.01.2015 and after two months of happy married life, their matrimonial life ran into rough weather, pursuant to which the spouses got estranged. On the complaint given by Malathi, the respondent police have registered a case in Cr.No.2 of 2016 on 30.03.2016 u/s 417, 496, 498-A, 506(ii) and 109 IPC against Raja [A1], Somasundaram [A2], Kannammal [A3], Kavitha [A4] and Chezhiyan [A5], challenging which all the accused are before this Court.

5. It is alleged by Malathi that after marriage, she came to know that Raja had got married earlier and suppressing the said marriage, he married her and when she questioned him, he assaulted her. She has further stated that on 02.04.2015, all the accused chased her out of the matrimonial home, on account of which she is now in her parental home. Hence, the FIR.

6. Learned counsel for the petitioners submitted that Malathi was aware of the earlier marriage of Raja with one Meena and that the said marriage was dissolved by a valid decree of divorce in HMOP No.52 of 2009 dated 10.07.2016 passed by the Sub Court, Namakkal. The learned counsel also contended that the marriage of Raja with Malathi was registered in the Office of the Sub-Registrar, Velagoundampatti and even in the application for registration of the marriage, Raja has disclosed the fact that he is a divorcee. The learned counsel also produced the information obtained under the Right to Information Act from the Sub Registrar, Velagoundampatti to show that even in the marriage application this fact has been disclosed. Apart from this allegation, there is also the allegation of assault.

7. In the considered opinion of this Court, disputed questions of fact cannot be gone into in a petition u/s 482 Cr.P.C. However, in Arnesh Kumar Vs State of Bihar and another [2014] 8 SCC 273, the Supreme Court has observed that there is a trend in matrimonial cases to make unsubstantiated allegations against all the family members of the husband, only to harass them.

8. Under such circumstances, the Inspector of Police, All Women Police Station, Paramathi Velur is directed to conduct a thorough investigation in Cr.No.2 of 2016, bearing in mind the aforesaid facts and if it is found that there is no basis in the complaint of Malathi, it is needless to state that the FIR should be closed.

With the above direction, this petition is closed.
Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1.The Inspector of Police
All Women Police Station
Paramathi Velur
Namakkal District.

2.The Public Prosecutor,
High Court, Chennai.

+1cc to Mr. R. Balagaruswamy, Advocate, S.R.No.58413

ssi (CO)
md (8/11/2016)

Crl.OP No.23031 of 2016

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