

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 01.06.2016

CORAM

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

CRL.OP.No.9050 of 2016

and CRL.MP.Nos.4689, 4690 of 2016

1.M.Mohamed Syed Rafeek
2.Fakeem
3.Babu
4.Kurshith Begum
5.Baby .. Petitioners/Accused

Vs

1.State rep by
W-2, All Women Police Station,
Triplicane, Chennai-2.
2.Zohra Bathul ..Respondents/Complainant and
Defactor Complainant.

Criminal Original Petition filed under Section 482
Cr.P.C., to call for the records in C.C.No.1842 of 2016 on the
file of the learned Chief Metropolitan Magistrate, Egmore,
Madras and quash the same.

For Petitioners : Dr.G.Krishnamurthy

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

O R D E R

This petition has been filed to quash the
proceedings in CC.No.1842 of 2016 on the file of the learned
Chief Metropolitan Magistrate, Egmore.

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

3. It is seen that the parties are Muslims and it is
alleged by the de facto complainant that the 1st petitioner
married for the second time, during the subsistence of her
marriage with him. Apart from these allegations of bigamy,
there are allegations of cruelty levelled against the

petitioners herein, for which, there are no prima facie materials for the trial to proceed. This Court find that there are no sufficient materials for the charge under Section 494 IPC to be framed against the petitioners herein.

4. In the result, this petition is partly allowed, inasmuch as the trial Court is directed not to frame charge against the petitioners under Section 494 IPC. With regard to other offences under Sections 498[A], 406 of IPC and Section 4 and 6 of Dowry Prohibition Act, the trial Court shall proceed to frame charge as against the petitioners. Since the petitioners 4 and 5 are womenfolk, they are directed to be present before the trial Court, for receiving papers under Section 207 Cr.P.C, at the time of framing charges, for questioning under Section 313 Cr.P.C and on the day of judgment. For other hearings, if they file an application under Section 317 Cr.P.C., undertaking that their counsel will cross-examine the witnesses, without adopting any dilatory tactics and that they will not dispute their identity, then the Trial Court is directed to consider the same liberally. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

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To

1.The Inspector of Police,
W-2, All Women Police Station,
Triplicane, Chennai-2.

2.The Public Prosecutor,
High Court, Madras.

1 cc to Dr.G.Krishnamurthy, Advocate, sr.29537

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kra 09.06.2016