

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.06.2016

CORAM

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

Cr1.O.P.No.8599 of 2016

and

Cr1.M.P.No.4486 of 2016

S.Brindha

... Petitioner/Defacto
Complainant

Vs.

1.The Superintendent of Police,
Tindivanam, Villupuram District.

2.The Deputy Superintendent of Police,
Tindivanam, Villupuram District.

3.The Inspector of Police,
Tindivanam All Women Police Station,
Tindivanam.

... Respondents

Criminal Original Petition filed under Section 482 of Cr.P.C., to direct the First Respondent to appoint any other officer not below the rank of Deputy Superintendent of police to reinvestigate the case and file a final report within a stipulated period that may fix by this Hon'ble Court in Crime No.8 of 15.

For Petitioner : Mr.K.Sivakumar

For Respondents : Mr.C.Emalias,
Additional Public Prosecutor

WEB COPY
O R D E R

This petition has been filed to appoint any other officer not below the rank of Deputy Superintendent of police to re-investigate the case and file a final report in Crime No.8 of 2015.

2. Heard the learned counsel for the petitioner; learned Additional Public Prosecutor appearing for the respondents and perused the materials placed on record.

3. On the complaint given by the petitioner, a case in Crime No.8 of 2015 was registered by the 3rd respondent police for offences under Sections 498[A], 494, 294[b] and 506[ii] IPC and after completing investigation, the respondent police have filed a final report in C.C.No.226 of 2015 before the Judicial Magistrate-I, Tindivanam for offences under Sections 498[A], 294[b] and 506[iii] IPC. The petitioner/de facto complainant has filed the present petition for re-investigation of the case, on the ground that the police have not included Section 494 IPC.

4. The offence under Section 494 IPC is non cognizable offence and a complaint can be filed only by an aggrieved person, in terms of Section 198 Cr.P.C. However, where an investigation under Section 498[A] IPC is in progress and if the police collect evidence to show about the involvement of the offence under Section 494 IPC, the same can be included in the final report. For framing charge under Section 494 IPC, it is incumbent to specify the date of marriage and that the marriage was performed in accordance with the custom and practices of the particular community.

5. In this case, even in the complaint given by the de facto complainant and the statement recorded under Section 161 Cr.P.C., she has not stated the date on which, the second marriage would taken place. Since the police were not able to collect materials for establishing a prima facie case under Section 494 IPC, they have excluded the same in the final report. However, during the course of trial, if evidence surfaces for framing a charge under Section 494 IPC, it is always open to the trial Court to alter the charges under Section 216 Cr.P.C., even Section 319 Cr.P.C. can be invoked for roping the accused who were involved in the second marriage.

6. This Court does not find any merits in this petition and the same stands dismissed. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

gya

To

1.The Superintendent of Police,
Tindivanam, Villupuram District.

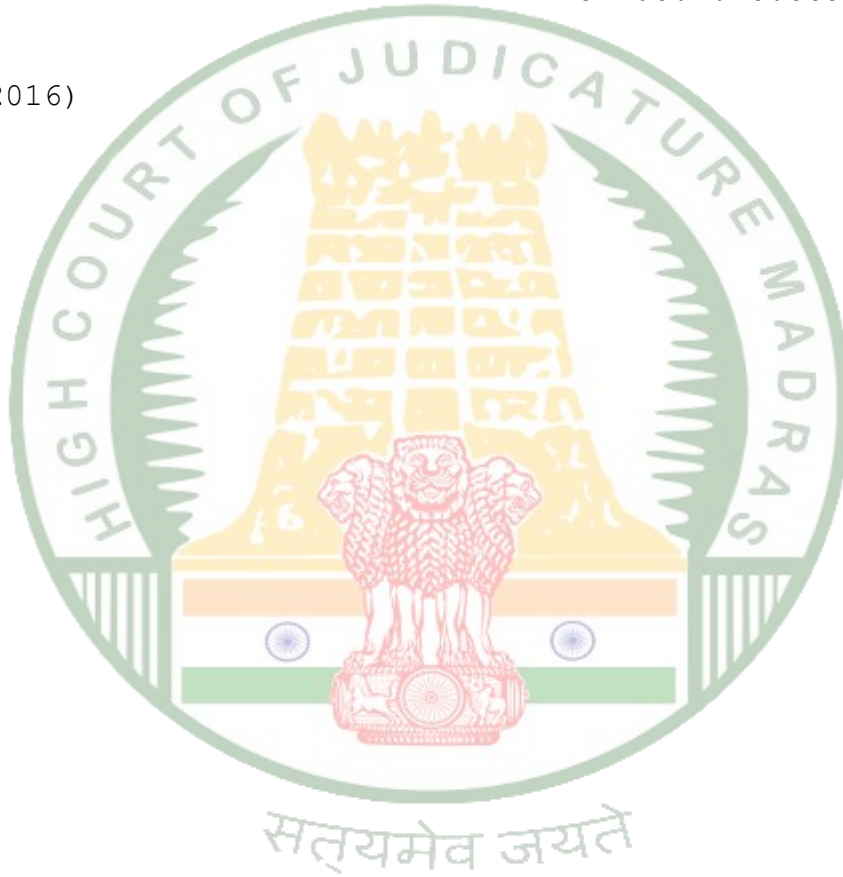
2.The Deputy Superintendent of Police,
Tindivanam, Villupuram District.

3.The Inspector of Police,
Tindivanam All Women Police Station,
Tindivanam.

4.The Public Prosecutor,
High Court, Madras.

Cr1.O.P.No.8599 of 2016

PVS (CO)
CA(29/06/2016)



WEB COPY