



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.04.2016

CORAM

THE HONOURABLE MR. JUSTICE P.N. PRAKASHCrl.O.P. (MD) No. 6034 of 2016andCrl.M.P. (MD) .No. 2971 of 2016

WEB COPY

1. Sasikumar
2. Soundarapandian
3. Annapurnam
4. Sasikala
5. Murugan
6. Sugapriya

... Petitioners

Vs.

1. The State represented by
the Inspector of Police,
All Women Police Station,
Sivakasi, Virudhunagar District.
2. Vanitha

... Respondents

Prayer: Criminal Original Petition is filed under Section 482 of Cr.P.C., to call for the records relating to the impugned F.I.R in Crime No.17 of 2015 dated 15.9.2015 and quash the same.

For Petitioner : Mr.R.Satish

For R1 : Mrs.S.Prabha

Government Advocate (Crl.side)

O R D E R

The Criminal Original Petition has been filed to call for the records relating to the F.I.R in Crime No.17 of 2015 dated 15.9.2015 and quash the same.

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

3. Vanitha was married to one Sundararaj on 22.06.2008 and through the wedlock, she has one child by name Aswin. On account of marital discord, they got estranged. According to Vanitha, she got divorce from Sundararaj in the year 2012 through a decree of divorce given by the Family Court, Sivakasi. Thereafter, Vanitha got married to Sasikumar (A1) in December 2013 which is also an arranged marriage. Through Sasikumar, Vanitha has a child by name Hanishka, who is aged 9 years.

4. It appears that there was a misunderstanding between Vanitha and Sasikumar and it is alleged by Vanitha that Sasikumar subjected her cruelty. Therefore, Vanitha lodged a complaint. Based on which, the respondent police have registered a case on 15.09.2015 in Crime No.17 of 2015 for the offences under Sections 498(A), 495, 406 and 506(i) of I.P.C. and Section 4 of Dowry Prohibition Act, challenging which, Sasikumar is before this

5. Mr.R.Sathish, learned counsel for the petitioners submitted that the marriage between Vanitha and Sundararaj has not



been dissolved in a manner known to law, inasmuch as the H.M.O.P.No.35 of 2013 filed by Sundararaj before the Sub Court, Sivakasi against Vanitha for divorce was dismissed for default on 21.01.2014, but whereas Vanitha has stated that she got divorce through the decree of divorce, which cannot be true. He also contended that Vanitha has filed a petition under Section 125 of Cr.P.C. in M.C.No.45 of 2015 before the Judicial Magistrate, Sivakasi, wherein she has taken different stand viz., that her marriage with Sundararaj was dissolved in the customary manner by entering into a divorce deed on 24.01.2013. The learned counsel for the petitioner has also relied upon a judgment of the Supreme Court in *Shivcharan Lal Verma and Another v. State of Madhya Pradesh* (2007) 15 SCC 369, wherein the Supreme Court has set aside the conviction and sentence of the accused therein under Section 498(A) of I.P.C., on the ground that the marriage between the accused and the Mohini itself was null and void.

6. In the considered opinion of this Court, the said judgment cannot be applied to the facts of the present case. The said judgment was delivered after a full-fledged trial by the trial Court. In this case, the marriage with the Sundararaj was dissolved in the manner known to law is a question of fact and that cannot be determined by this Court in a provision under Section 482 of Cr.P.C. However, it is clear that there is a child by name Hanishka born to the petitioner and Vanitha and therefore, this Court, in a quash petition, cannot give a finding about the marital status of Vanitha. In the result, this Court finds that there are prima facie materials for the investigation to proceed in Crime No.17 of 2015. Hence, in the light of the law laid down by the Hon'ble Supreme Court in *State of Haryana and Others vs. Bhajan Lal* reported in [1992 Supp (1) SCC 335], it is not a fit case to quash the F.I.R. in Crime No.17 of 2015. Accordingly, this Criminal Original Petition is dismissed. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CSI)

/True Copy/

Sub-Assistant Registrar

To

1. The Inspector of Police, All Women Police Station, Sivakasi, Virudhunagar District.
2. The Additional Public Prosecutor, Madurai Bench of Madras High Court, Madurai.

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<https://hcds.court.gov.in/> 5/2016

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