

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.02.2017

CORAM

THE HONOURABLE MR. JUSTICE C.T.SELVAM

Crl.R.C.No.155 of 2017

Yukeshiba

D/o.Kirubakaran

... Petitioner

Vs.

The State by

Sub Inspector of Police,

All Women Police Station,

Vaniyambadi,

Vellore District.

Crime No.26 of 2014

... Respondent

Criminal Revision filed under Section 397 and 401 Cr.P.C. against the order of learned Judicial Magistrate III, Tirupattur, Vellore District, passed in C.M.P.No.1625 of 2016 in C.C.No.90 of 2015 on 25.10.2016.

For Petitioner : Mr.A.Gokulakrishnan

For Respondent : Mr.M.Mohammed Riyaz,
Government Advocate [Crl.side]

ORDER

This revision arises against the order of learned Judicial Magistrate III, Tirupattur, Vellore District, passed in C.M.P.No.1625 of 2016 in C.C.No.90 of 2015 on 25.10.2016.

2. The case of the prosecution is that A1/husband of *de facto* complainant and this petitioner entered into a marriage. Petitioner is arrayed as A4 in Crime No.26 of 2014 on the file of respondent. Upon completion of investigation, respondent filed charge sheet informing commission of offences u/s.494, 498-A and 506(i) IPC against A1 to A3 and u/s.494 and 506(i) IPC against petitioner/A4. The case was taken on file in C.C.No.90 of 2015 on the file of learned Judicial Magistrate III, Tirupattur. Petitioner moved C.M.P.No.1625 of 2016 seeking discharge. Court below, under the impugned order, dismissed such petition. Hence, this revision.

3. Heard learned counsel for petitioner and learned Government Advocate [Crl.side].

4. Even according to the prosecution, first accused/husband of *de facto* complainant took this petitioner as a wife. Section 494 IPC reads as follows:

“494. Marrying again during lifetime of husband or wife. - Whoever, having a husband or wife living, marries in any case in which such marriage is void by reason of its taking place during the life of such husband or wife, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.”

(otiose)

5. It is only one who has a husband or wife living and who enters upon a further marriage who can be prosecuted for offence u/s.494 IPC. Petitioner cannot be prosecuted on such score. The other charge against the petitioner, of her being party to the prosecution party being chased away when questioned about the second marriage, is not supported by particulars of the specific conduct of petitioner. In any event, the charge u/s.506(i) IPC is a flimsy one which easily can be made.

The Criminal Revision Case is allowed. The order of learned Judicial Magistrate III, Tirupattur, Vellore District, passed in C.M.P.No.1625 of 2016 in C.C.No.90 of 2015 on 25.10.2016, is set aside. Petitioner/A4 is discharged of all charges.

14.02.2017

Index:yes/no
Internet:yes/no
gm

To

The Judicial Magistrate III,
Tirupattur,
Vellore District.

C.T.SELVAM, J

gm

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