

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 06.01.2017

CORAM

THE HONOURABLE MR.JUSTICE T.MATHIVANAN

CRL.O.P.No.22192 of 2009
and
M.P.Nos.1 and 2 of 2009

1. Mrs.Chandrakala
2. Mr.L.Rajendra Kumar Challani
3. Mrs.Lalithadevi Challani
4. Mr.Gowthamchand Chajed
5. Mrs.Nirmala Bai
6. Mr.Prakashchand Mehta Petitioners

- Vs -

Mr.Pannalal Bohramohan Respondent

Prayer : Criminal Original Petition is filed under Section 482 Cr.P.C. to call for the records in C.C.No.534 of 2009 on the file of the II Metropolitan Magistrate Court, Egmore, Chennai and Quash the same.

For Petitioner : Mr.S.Thiruvengadam

For Respondent : No appearance

O R D E R

This petition is filed by the petitioners who are the accused (A1, A3, A4, A7, A8 and A9) in the case in C.C.No.534 of 2009 on the file of the learned II Metropolitan Magistrate, Egmore, Chennai to quash the criminal proceedings initiated against them in the above said case. The respondent is the complainant therein.

2. When the matter came up for hearing on 05.12.2016, there was no representation on behalf of both sides, then the matter stand adjourned to 05.01.2017 and on that day, there was no representation on behalf of the respondent, while the learned counsel for the petitioners was present. Hence, this case stands listed today under the caption 'for orders'.

3. Heard Mr.S.Thiruvengadam, learned counsel for the petitioners. Since there is no representation on behalf of the

respondent, he is called absent.

4. This Court has perused the averments of the petition and the related materials available on records.

5. Having been taken into consideration of the facts and circumstances of the case, the following order is being passed.

6. The respondent has filed a private complaint under Section 200 of Cr.P.C., as against the petitioners alleging they have committed the offences punishable under Section 494 r/w. section 109 of I.P.C.

7. The learned II Metropolitan Magistrate has taken the complaint on file in C.C.No.534 of 2009 and taken cognizance of offence under Section 494 of I.P.C.

8. The 1st petitioner herein is the wife of the 2nd accused in the above said case namely Rakesh Kumar Ranka. The petitioners 3 and 4 are the parents of the 1st accused and the petitioners 5 and 6 are the parents of the 2nd accused. The 4th petitioner herein is the husband of the paternal aunt of the 1st petitioner and the 5th petitioner is the paternal aunt of the 1st petitioner. The 6th petitioner herein is the maternal uncle of the 1st petitioner.

9. It is manifested from the records that the complainant who is the respondent herein had married the 1st petitioner on 28.02.2002, according to Jain customs and rites and the 2nd, 5th and 6th accused in the case being the neighbours were aware of the marriage which took place between the 1st petitioner and the respondent. It is also alleged that the petitioners 5 and 6 herein were also aware of the marriage. Soon after their marriage, the 1st petitioner and the respondent herein had been living together as husband and wife for about two years. It is revealed from the complaint that on 15.08.2002, the 2nd petitioner had availed a loan to the extent of Rs.6,00,000/- from the respondent in connection with his business. Since the amount was not repaid by the 2nd petitioner frequent quarrel was arisen between them. Thereafter, the 1st petitioner and the respondent had parted their ways on account of matrimonial tip. It is also revealed that a complaint was lodged before All Women Police Station at Royapuram on 25.05.2005, requesting for re-union and later, the 1st petitioner herein had filed a petition before the Family Court in Chennai in O.P.No.1660 of 2005 under Section 9 of the Hindu Marriage Act for restitution of conjugal rights which was decreed on 31.03.2006 with necessary directions.

10. The respondent has primarily alleged that when the first marriage of the 1st petitioner with him was in subsistence, the

1st petitioner had contracted with the second marriage with the second accused. Only on account of this reason, a private complaint was filed by the respondent on the ground of bigamy under Section 494 r/w. 109 of I.P.C. As aforesaid, the said complaint was taken on the file of II Metropolitan Magistrate in C.C.No.534 of 2009.

11. As argued by Mr.Thiruvengadam, learned counsel for the petitioners, no adequate grounds are available to proceed against the petitioners under Section 494 of I.P.C. Further, the respondent has also not evinced any interest to produce sufficient evidence to show that the petitioners 1 to 6 had committed the offence under Section 494 of I.P.C.

12. The learned counsel for the petitioners has also vehemently objected and refuted the allegations made on behalf of the petitioners saying that the 1st petitioner never married the 2nd accused as 2nd husband when her marriage was in subsistence with the respondent.

13. In the absence of adequate evidences, it cannot be construed that a prima-facie case is made out as against the petitioners.

14. Keeping in view of the above said fact, this Court finds that the private complaint in C.C.No.534 of 2009 is devoid of any merit and therefore, liable to be quashed and accordingly, this Criminal Original Petition is allowed and the complaint in C.C.No.534 of 2009 pending on the file of II Metropolitan Magistrate is quashed. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

ssn

To

1. II Metropolitan Magistrate Court,
Egmore, Chennai.

+1cc to Mr.S.Thiruvengadam, Advocate, S.R.No.1395

CRL.O.P.No.22192 of 2009
and M.P.Nos.1 and 2 of 2009

SKS(CO)
CS/17/08/17