

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :20.11.2018

CORAM

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

Crl.O.P.No.27727 of 2011  
and  
CRL .MP.No.1 of 2011

Anandhi ... Petitioner  
Vs.

1.Balaji

2.Mangalavalli

3.Subramanian (died)

4.Dhanalakshmi (died) ... Respondents

Prayer: Petition filed under Section 482 of the Criminal Procedure Code, to call for the entire records and set aside the order in Criminal Revision Petition No.1 of 2011 by the learned Principal Sessions Judge, Cuddalore dated 20.08.2011, confirming the order passed by the learned Judicial Magistrate, Neyveli in CC No.11 of 2004 dated 30.10.2010 and consequently, direct the learned Judicial Magistrate, Neyveli to restore the CC.No.11 of 2004, try the case as per law and dispose within the time limit fixed by this Court on merits.

For Petitioner : No appearance

ORDER

This Criminal Original Petition has been filed to set aside the order dated 29.08.2011 passed by the Principal Sessions Judge, Cuddalore in Criminal Revision Petition No.1 of 2011.

2.The petitioner herein filed a complaint against the respondents for the commission of offence under Sections 494 and 109 IPC before the learned Judicial Magistrate, Neyveli, which was taken on file in CC No.11 of 2004.

3.The brief facts of the complaint are as follows:

3.1.The marriage between the petitioner / wife and the 1<sup>st</sup> respondent / husband was solemnised on 13.06.1994 at P.S. Marriage Hall, Mylapore, Chennai as per the Hindu rites and customs and 30 sovereigns of gold jewels and household

articles worth about Rs.1,00,000/- were given as demanded by the respondents 1, 3 and 4. After the marriage the said respondents demanded more dowry and harassed the petitioner. She was not provided with food and even, she was not given medical treatment, when she fell ill. She was not allowed to talk with her husband by the respondents 3 and 4. On 31.05.1995, she gave birth to a female child and the parents of the petitioner had incurred the expenditure towards the same. While so, on 27.06.1996, the said respondents had demanded dowry for buying house and driven her out of matrimonial home and they also retained her 30 sovereigns jewels and threatened her that she would be burnt. Due to fear she went to her matrimonial home.

3.2. Even after several rounds of compromise talk, the husband refused to live with her. They also informed her that the 1<sup>st</sup> respondent would arrange for second marriage.

3.3. At this stage, the 1<sup>st</sup> respondent filed a petition in O.P.No.1362 of 1996, before the family Court, Chennai for restitution of conjugal rights and the petitioner also contested the case. However, the first respondent withdrew the said petition. The petitioner also filed a petition for maintenance before the Judicial Magistrate, Neyveli and as per the order of the Court, the petitioner is receiving maintenance.

3.4. The 1<sup>st</sup> respondent had also initiated proceedings in O.P.No.1116 of 1997 before the Family Court, Chennai and the same was pending. At this juncture, she came to know that the 1<sup>st</sup> respondent had married one Mangalavalli, on 21.04.2000, in a marriage hall at Uthiramerur, Chengalpattu District and the owner of the said marriage hall had also informed that the respondents 3 and 4 had conducted the marriage.

3.5. When the marriage between herself and the 1<sup>st</sup> respondent was in subsistence, the 1<sup>st</sup> respondent had married the 2<sup>nd</sup> respondent and the 3<sup>rd</sup> and 4<sup>th</sup> respondents had also involved in the conduct of the 2<sup>nd</sup> marriage. Hence, the petitioner prayed to take action against the respondents.

4. The complaint of the petitioner had been taken on file in CC No.2004 and by order dated 30.10.2010, the learned District Munsif - cum - Judicial Magistrate, Neyveli had closed the said complaint by discharging A1 and A2 holding that no case is made about A1 and A2.

5. Aggrieved over the same, the petitioner had filed a Criminal Revision petition in No.01 of 2011, before the Principal Sessions Court, Cuddalore, on the ground that the trial Court had failed to note that the complainant was present and made representation to examine further witnesses on her side, no opportunity was provided to put forth her case

and the trial Court had erred in holding that already sufficient chances were given for examination of complainant's side witnesses.

6. The Principal Sessions Judge, Cuddalore, after hearing both sides and perusing the records, by order dated 29.01.2011 dismissed the petition by holding that the matter has been prolonging for years together and substantial progress has not been made and the proceedings have been initiated for the purpose of making the other side to meet out her demands and there has been a compromise, but, the petitioner has retracted from compromise and the petitioner has ultimately decided to keep the proceedings alive for years together. She has not turned on several hearings and there was no progress in the matter. The Court had also observed that the petitioner is interested in multifarious filing of petitions and ensured the other side is terrorised by a spate of applications and the trial Court has rightly held that there is no other go except to discharge the accused.

7. Against the order of dismissal, the present criminal original petition has been filed by the petitioner to set aside the same.

8. This Criminal Original Petition was filed on 15.11.2011. There was no representation on behalf of the petitioner on 28.02.2012 and hence, it was directed to be listed 'for dismissal'. On 20.11.2018 also there was no representation on behalf of the petitioner. This Court is of view that no useful purpose will be achieved by keeping this matter for years together and therefore, inclines to dispose of this petition with the available materials.

9. It is seen that the complaint has been filed in the year 2004 and was taken on file on 23.01.2004. Even after eight months, the complainant was taking time for production of witnesses. There has been no progress in the complaint. Therefore, the trial Court closed the complainant side witnesses, as there was no prima facie case made out and discharged the accused from the charges.

10. A perusal of the materials would disclose that the revision petition filed before the Principal Sessions Judge, Cuddalore was posted for arguments on several occasions from 31.03.2011 to 08.08.2011. However, there was no response from the petitioner and it was posted on 09.08.2011 on condition and even thereafter the petitioner did not take steps to proceed with the revision. Finally it was taken on 23.08.2011 and on that hearing also the petitioner did not appear to put forth her case. Therefore, it is evident that the petitioner is not interested in proceeding with the revision and adopting dilatory tactics by not appearing before the Court and only in order to wreck vengeance, the petition is being filed and if she had really wanted the relief, definitely, she would have

proceeded with the revision as well as this criminal original petition.

11. For the reasons stated above, this criminal original petition is dismissed, as no useful purpose will be served keeping this petition any more. Consequently, connected miscellaneous petition is closed.

Sd/-  
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

dsk

To

- 1.The Principal Sessions Judge,  
Cuddalore.
- 2.The Judicial Magistrate,  
Neyveli.
- 3.Thro' The Chief Judicial Magistrate,  
Cuddalore.

Cr1.O.P.No.27727 of 2011

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srg 03/12/2019

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