

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED 30.10.2018
CORAM

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

CRL.O.P.No.24460 of 2018
and CRL.M.P.Nos.13910 & 13911 of 2018

1.K.Marimuthu
2.M.Lakshmi

.. Petitioners

Vs

Baba Natarajan Prasad

.. Respondent

Criminal Original Petition filed under Section 482 of Cr.P.C., praying to call for the records relating to the private complaint filed by the respondent/ complainant in C.C.No.74 of 2018 on the file of the Judicial Magistrate No.VI, Coimbatore.

For Petitioners : Mr.P.Jagadeesan

For Respondent : Mr.H.S.Mohamed Rafi

O R D E R

The respondent Mr.Baba Natarajan Prasad got married to Revathi/A1 on 23.05.2010. Thereafter, they got separated and there were several litigations between them, including divorce proceedings, domestic violence proceedings and criminal prosecution. In fact, Revathi had initiated a criminal prosecution under Section 498(A) in C.C.No.197 of 2013 in Crime No.9 of 2013, in which, Baba Natarajan Prasad was acquitted by the criminal Court on 15.03.2016. While that being so, Baba Natarajan Prasad has filed the present prosecution in C.C.No.74 of 2018 against Revathi/A1, Gunasekaran/A2, Marimuthu/A3 and Lakshmi/A4 alleging that during the subsistence of the first marriage, Revathi/A1 has got married to Gunasekaran/A2 and that, Marimuthu/A3 and Lakshmi/A4, who are the parents of Revathi had abetted the said offence. Challenging the prosecution, Marimuthu and Lakshmi are before this Court.

2.Heard Mr.Jagadeesan, learned counsel for the petitioners/accused and Mr.Mohamed Rafi, learned counsel for the respondent/complainant.

3.On 22.10.2018, this Court passed the following order :

"When the matter was taken up for hearing, Mr.H.S.Mohamed Rafi, learned counsel entered appearance for the respondent and brought to the notice of this Court that the petitioners herein have filed a memo before the trial Court as if this Court has admitted Crl.O.P.No.24460 of 2018 and has ordered

Notice of Motion, whereas actually, the matter has been posted for admission, only today.

2. The learned counsel for the petitioners pleads ignorance of this fact and requests time to get instructions from his clients.

3. A copy of the aforesaid memo has been furnished to the learned counsel for the petitioners.

4. Post the matter on 30.10.2018 in the Admission List."

4. Information called for from the trial Court showed that the counsel for the accused has filed a Memo before the trial Court on 17.10.2018 stating that, this Court has admitted this case and has ordered notice of motion. But whereas, this case itself came for admission only on 22.10.2018.

5. Learned counsel for the petitioners/accused submitted that his client had only told the counsel to get an adjournment, but whereas, the counsel in his over zealotness has made a wrong representation.

6. This Court deprecates such practice of filing such memo before the trial Court. Coming to the merits of the case, this Court finds that the complainant had produced prima facie materials to show that A1 and A2 got married at Marudhamalai Temple, in the presence of A3 and A4 and therefore, it cannot be stated that there are no materials against petitioners/accused.

7. In the result, this petition is devoid of merits and is dismissed. Consequently connected miscellaneous petitions are closed. The presence of the petitioners/accused before the trial Court shall stand dispensed with, on condition that they shall appear before the trial Court and execute a bond for Rs.10,000/- under section 88 Cr.P.C. without sureties. The petitioners shall be present before the trial Court for framing charges, for questioning under Section 313 Cr.P.C. and on the date of judgment. For other hearings, if they file an application under Section 317 Cr.P.C., the same shall be liberally construed. If thereafter, the accused absconds, a fresh FIR can be registered under Section 229A IPC. The trial Court is directed to expedite proceedings in C.C.No.74 of 2018.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

dua/gya

To

Judicial Magistrate No.VI,
Coimbatore.

+3ccs to Mr.H.S.Mohamed Rafi, Advocate, S.R.No.74258

CRL.OP.No.24460 of 2018

SS (CO)

rrs 20/11/2018