

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.11.2018

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

CrI.O.P.No.26393 of 2018

&

CrI.M.P.Nos.15181 & 15182 of 2018

M.Kiruthika

... Petitioner/8th Accused

Vs.

G.Kiruthika

...Respondent/Complainant

Prayer: This Criminal Original Petition filed under Section 482 Cr.P.C. to direct the respondent to call for the records relating to C.C.No.30 of 2018 on the file of the Judicial Magistrate Court No.II, Namakkal and quash the same in respect of the petitioner only.

For Petitioner : Mr.C.S.Saravanan

ORDER

This petition has been filed seeking to quash the proceedings in C.C.No.30 of 2018 pending on the file of the Judicial Magistrate Court II, Namakkal.

2.This petition has been filed by A8, who is said to have married A1 during the subsistence of the first marriage. The complaint has been filed for the offences under Sections 120(b), 494 and 498(A) of IPC.

3.The learned counsel for the petitioner would submit that the father of this petitioner had given a complaint before the Inspector of Police, Velayudhapalayam Police Station, Karur District on 01.06.2017 stating that anonymous calls are being received from various mobile numbers with photographs and action must be taken on the complaint. While so, the respondent has proceeded to file a private complaint before the Court below against 10 accused persons for the offences under Sections 120 (b), 494 and 498(A) of IPC. The learned counsel would submit that the photograph that has been relied upon in the complaint as if this petitioner had married A1, is a morphed photograph. The learned counsel would further submit that this petitioner was already married to one Mayilsamy and she is on her family

way. Therefore, the learned counsel would submit that the entire complaint is an abuse of process of the Court.

4.This Court has gone through the allegations made in the complaint. There is a specific allegation to the effect that this petitioner got married to the first accused on 27.08.2017. This Court cannot go into the truth or otherwise of the allegations made in the complaint. Whether the photograph relied upon is a morphed one, and whether, this petitioner has been unnecessarily dragged into the proceedings, can all be determined only in the course of proceedings. These are factual issues which require appreciation of evidence and this Court cannot go into those issues in exercise of its jurisdiction under Section 482 of Cr.P.C.

5.This Court, therefore, does not want to interfere with the proceedings at this stage. However, taking into consideration the facts and circumstances of the case, the presence of the petitioner is dispensed with before the Court below. The petitioner shall be represented by the counsel through out the proceedings. The counsel representing the petitioner shall cross-examine the witnesses on the same day, they are examined in chief and the petitioner shall not question the identity of the witnesses. The petitioner shall be present before the Court below at the time of questioning under Section 313 Cr.P.C. and at the time of passing of the judgment. It is left open to the petitioner to raise all the issues before the Court below in the course of proceedings and the Court below shall consider the same on its own merits and in accordance with law. The Court below is directed to complete the proceedings in C.C.No.30 of 2018 within a period of four months from the date of receipt of a copy of this order.

6.This Criminal Original Petition is disposed of with the above directions. Consequently, connected miscellaneous petitions are closed.

सत्यमेव जयते

WEB COPY
Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

kal

To

The Judicial Magistrate No.II,
Namakkal.

+lcc to Mr.C.S.Saravanan, Advocate Sr.77724

Crl.O.P.No.26393 of 2018

&
Crl.M.P.Nos.15181 & 15182 of 2018

srg 16/11/2018



WEB COPY