



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.04.2018

CORAM:

THE HONOURABLE MR.JUSTICE **G.R.SWAMINATHAN**

Cr1.O.P.(MD)No.7122 of 2013
and
M.P.(MD)No.1 of 2013

A.Pandiammal

... Petitioner

Vs.

1.The Inspector of Police,
All Women Police Station,
Thiruparankundram,
Madurai.
(Crime No.42 of 2009)

2.Jayaseetha

... Respondents

Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records pertaining to the charge sheet in C.C.No.2 of 2013 on the file of the Judicial Magistrate Court No.VI, Madurai, in Crime No.42 of 2009, dated 05.12.2009 on the file of the first respondent police and quash the same as illegal.

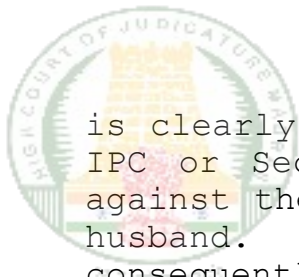
For Petitioner : Mr.T.Lajapathi Roy
For R1 : Mr.A.Robinson
Government Advocate
(Criminal side)

For R2 : No Appearance

ORDER

The petitioner is facing trial in C.C.No.2 of 2013 on the file of the Judicial Magistrate Court No.VI, Madurai, for the offences under Sections 494 and 498(A) IPC r/w. 109 IPC and Section 4 of Dowry Prohibition Act.

2.This Court went through the final report as well as the statements recorded under Section 161(3) Cr.P.C. There is absolutely nothing on record to indicate that the petitioner has contracted second marriage with the first accused. The second respondent/de-facto complainant is the wife of the first accused. Therefore, the offence under Section 494 IPC against the petitioner



is clearly not made out. Likewise, the offence under Section 498-A IPC or Section 4 of the Dowry Prohibition Act is attracted only against the husband or the family members or blood relatives of the husband. If Sections 498-A and 494 IPC are not attracted, consequently, Section 109 IPC is also not attracted. The Hon'ble Supreme Court consistently held that the wife can only prosecute her husband and in-laws under Section 498-A IPC. Therefore, there is legal and statutory bar against prosecuting the petitioner for the offence under Section 498-A IPC. Since the offences are not made out, the impugned proceedings shall stand quashed insofar as the petitioner is concerned. Considering the fact that this criminal case is of the year 2013, the learned Judicial Magistrate No.VI, Madurai, is directed to expedite the trial in C.C.No.2 of 2013 and conclude the same within a period of six months from the date of receipt of a copy of this order.

3.With the above observation, this Criminal Original Petition is allowed. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(AE)

/True Copy/

Sub Assistant Registrar

To

- 1.The Judicial Magistrate No.VI,
Madurai.
- 2.The Inspector of Police,
All Women Police Station,
Thiruparankundram, Madurai.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+CC to Mr.T.Lajapathi Roy, Advocate, SR.No.63559.

Cr1.O.P. (MD) No.7122 of 2013
25.04.2018

SMN
PS/KKR/SAR 1/15.05.2018/2P/5C