

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****DATED: 01.04.2019****CORAM****THE HONOURABLE MR. JUSTICE B.PUGALENDHI****Cr1.O.P. (MD)No.6001 of 2016****Cr1.M.P. (MD) .Nos.2955 of 2016 & 1907 of 2018**

R.Sinivasangupta

... Petitioners/Accused No.7

Vs.

1. State represented by
The Inspector of Police,
All Women Police Station,
Kottai, Trichy District.
(Crime No.28 of 2015)

... Respondent/Complainant

2. Muthulakshmi

... Respondent/Defacto Complainant

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records pertaining to the case in C.C.No.18 of 2016 on the file of the Judicial Magistrate, Additional Mahila Court, Trichy and quash the same as against the petitioner.

For Petitioner	: No Appearance
For Respondents	: Mr.R.Anandharaj for R1 Additional Public Prosecutor Mr.M.Ashok Kumar for R2

ORDER

This Criminal Original Petition has been filed by the petitioner to quash the proceedings pending against him in C.C.No.18 of 2016 on the file of the learned Judicial Magistrate, Additional Mahila Court, Trichy.

2.Heard the learned Additional Public Prosecutor appearing for the first respondent and the learned Counsel appearing for the second respondent. There is no representation for the petitioner.

3.The second respondent / complainant has lodged a complaint before the first respondent police against the petitioner and six others, based on which a case in Crime No.28 of 2015 has been registered by the first respondent police for the offence punishable under Sections 498A, 494, 506(i) r/w 109 IPC. The first respondent police, after enquiry, has filed the charge sheet in C.C.No.18 of 2016 on the file of the learned Judicial Magistrate, Additional Mahila Court, Trichy, as against the petitioner and others and challenging the same, the petitioner, who is the seventh accused, has filed this petition.



4.The case of the prosecution is that the second respondent has married one Kannan on 10.02.1988 at Gujarathi Marriage Hall, Trichy District. It is alleged that after the marriage, the second respondent was put to harassment by demanding dowry. It is the case of the complainant that her husband / first accused, suppressing his marriage with the petitioner, got married with one Priya / second accused on 16.09.2001 and the present petitioner herein / seventh accused and other accused, knowing fully well about the subsistence of the earlier marriage, has arranged and attended the second marriage with the second accused. The first respondent Police, after conducting investigation, has filed the final report as against all the accused and insofar as the present petitioner / seventh accused is concerned, the final report is filed for the offence under Sections 494 r/w 109 IPC.

5.Perusal of the grounds raised in this petition would show that the petitioner has raised the following points for the consideration of this Court.

6.According to the complaint as well as the statement of witnesses, one Raghavan, on 10.01.2007, informed the complainant that her husband / first accused got married the second accused / Priya on 16.09.2001, in the presence of the petitioner herein and other accused. But, in the chief examination in respect of HMOP.No.258 of 2006 which was held on 06.04.2009, filed by the first accused, the said Raghavan had stated that he met the first accused only 6 or 7 months back and on the said visit, he was informed about his second marriage with the second accused. In view of the contradictory statements made by the said Raghavan, on whose statement the petitioner herein has been roped-in as an accused, it is prayed to quash the final report insofar as this petitioner is concerned.

7.The petitioner is residing at Salem and has nothing to do with the alleged offence. It is purely a family dispute between the first accused and the second respondent. In fact, in the invitation card, in respect of the alleged second marriage dated 16.09.2001, said to have been given by Raghavan to the complainant, there was a telephone number mentioned as belongs to the bride's side. The said telephone number was 0427-2268532. But, as per the letter given by Bharat Sanchar Nigam Limited [signed by Accounts Officer (Urban), O/o.General Manager, TRA Unit, BSNL, Salem, on 13.08.2012], the said telephone number was provided on 22.06.2002. Therefore, it is contended that the so called invitation card is also a forged one and therefore, it is prayed to quash the pending proceedings.

8.This Court paid it's anxious consideration to the documents placed on record.

<https://hcservices.ecourts.gov.in/hcservices/>

9.It is seen from the records that the complainant came to the knowledge of the solemnization of the second marriage through one



Ragavan on 10.01.2007, that on 16.09.2001, the first accused married the second accused and all the remaining accused had arranged and attended the second marriage, knowing fully well about the subsistence of the first marriage with the complainant. But, as rightly pointed out by the petitioner in his typed set of papers, the said Ragavan, in HMOP.No.258 of 2006 filed by the first accused, in his chief examination on 06.04.2009, has deposed that he met the first accused only 6 or 7 months back and during the course of their interaction, he came to know about the second marriage.

10.It is evident from the record that the petitioner herein / seventh accused has been roped-in as an accused based on the statement given by the said Ragavan, but, Ragavan, when examined in yet another proceedings filed in HMOP.No.258 of 2016, deposed that he met the first accused only 6 or 7 months back. Therefore, this Court is of the view that the impugned proceedings is liable to be quashed insofar this petitioner is concerned.

11.Apart from the same, the final report, as against the petitioner / seventh accused, is filed for the offence under Sections 494 r/w 109 IPC and in view of the specific bar under Section 198 Cr.P.C., this complaint which has been taken by the police for the offence punishable under Section 494 IPC as against this petitioner is not maintainable.

12.As regards the another ground raised in this petition, ie., with regard to the telephone number given in the invitation card for the alleged second marriage dated 16.09.2001, this Court is of the view that it is a matter for evidence and therefore, leaving all the issues open, this Court directs the learned Judicial Magistrate, Additional Mahila Court, Trichy, to expedite the trial insofar the remaining accused, ie., accused 1 to 6, are concerned and conclude the same, within a period of six months from the date of receipt of a copy of this order.

13.In fine, this Criminal Original Petition is allowed and the proceedings pending in C.C.No.18 of 2016 on the file of the Judicial Magistrate, Additional Mahila Court, Trichy, is quashed insofar as this petitioner / seventh accused is concerned. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (crl.side)

// True Copy //

Sub Assistant Registrar(CS)



To

1. The Judicial Magistrate/Additional Mahila Judge, Trichy.
2. The Inspector of Police, All Women Police Station, Kottai, Trichy District.
3. The Additional Public Prosecutor, Madurai Bench of Madras High Court, Madurai.

+1 CC to Mr.M.ASHOKKUMAR, Advocate (SR-58403[F] dated 02/04/2019)

Crl.O.P. (MD) No.6001 of 2016
01.04.2019

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