



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.09.2019

CORAM:

THE HONOURABLE MR. JUSTICE **G.K. ILANTHIRAIYAN**

Crl.O.P.(MD) No.972 of 2018

and

Crl.M.P(MD) No.414 of 2018

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Geetha

...Petitioner/Accused 2

Vs.

1. The Inspector of Police  
All Women Police Station  
Nilakottai  
Dindigul District  
Crime No. 14 of 2016

...1<sup>st</sup> Respondent/Complainant

2. Anitha ...2<sup>nd</sup> Respondents/Defacto Complainant

**PRAYER:** Criminal Original Petition filed under Section 482 Cr.P.C. praying to call for the records pertaining to the C.C.No.58 of 2017 on the file of the learned Judicial Magistrate, Nilakottai, Dindigul District and quash the same as against the petitioner.

For Petitioner : Mr.K.Manikandan

For Respondents : Mr.K.Suyambulinga Bharathi  
No.1 Government Advocate(Crl.Side)  
No.2 : Mr.S.Anantha Prakash

### **ORDER**

This Criminal Original Petition has been filed to quash the proceedings in C.C.No.58 of 2017 on the file of the learned Judicial Magistrate, Nilakottai, Dindigul District having been taken cognizance for the offences under Sections 498(A), 494, 506 (i) and 109 of IPC.

2. The learned counsel for the petitioner would submit that there are totally 16 accused in this case and the petitioner herein is arraigned as A2. According to the case of the prosecution the second respondent lodged a complaint on the allegation that she got married with the first accused and due to their wedlock they got two childrens and thereafter due to some misunderstanding they got separated and the first accused failed to maintain the defacto complainant and as well as the childrens born to them. Hence the defacto complainant filed maintenance case before the Family Court, Madurai in M.C.No. 66 of 2011, in which it was ordered that the first accused shall pay a sum of Rs.6000/- to each of the childrens and also directed to pay the school fees. Even the first accused failed to pay the maintenance



amount ordered by the Family Court and got second marriage with the second accused and living at Kodaikanal with other accused persons. All other accused persons have abducted the first accused to commit the crime. The learned counsel for the petitioner would submit that initially the case was registered as against all the accused persons in Crime No. 14 of 2016 for the offences under Section 498(A), 494, 506(i) and 109 of IPC and thereafter the trial Court has taken cognizance only for the offences under Sections 494, 506(i) 109 and 147 of IPC and the petitioner is concerned she has been charged for offences under Sections 109 and 506(i) of IPC. She has been unnecessarily robed in this crime and falsely charge sheeted and the same has been mechanically taken cognizance for the offences under Sections 109 and 506(i) of IPC. He further submitted that the entire allegations and averments are only as against the first accused and insofar the petitioner herein is concerned the only allegation is that she got married the first accused, except this allegations no other materials are there to attract the offence under Sections 109 and 506(i) of IPC. Since the petitioner is a Government employee a false case has been foisted against the petitioner.

3. The learned Government Advocate(Crl.Side) would submit that the defacto complainant is the wife of the first accused and got married with the first accused and gave birth to two childrens and thereafter due to some misunderstanding they got separated and infact she also filed maintenance case and maintenance was also awarded as against the first accused. She also lodged complaint and the same was registered under Sections 498(A) of IPC as against the first accused and it is pending. Insofar as the first accused is concerned she got married with the second accused namely the first petitioner herein and living together. All other accused persons have abducted the first accused to commit the crime and the trial court has right taken cognizance for the offence under Sections 109 and 506(i) of IPC as against the petitioner and other accused persons. He further submitted that the CC is of the year 2017 and due to the pendency of this petition, the trial Court cannot proceed further.

4. Heard Mr. K.Manikandan learned counsel for the petitioner and Mr.K.Suyambulinga Bharathi learned Government Advocate (Crl.Side) for the first respondent and Mr. S.Anantha Prakash, learned counsel appearing for the second respondent.

5. There are totally sixteen accused in this case and the petitioner herein is arraigned as A2. The case of the prosecution is that the second respondent lodged a complaint on the allegation that she got married with the first accused and due to their wedlock they got two childrens and thereafter due to some



misunderstanding they got separated and the first accused failed to maintain the defacto complainant and as well as the childrens born to them. Hence the defacto complainant filed maintenance case before the Family Court, Madurai and maintenance was also ordered as against the petitioner and when the same was questioned by the defacto complainant she was threatened by all the accused persons with dire consequences. Insofar as the petitioner is concerned, she got married with the first accused and living together, except this no other allegations has been made in the complaint and no one has spoken about the other allegations against the petitioner herein. That apart the defacto complainant already lodged a complaint as against the first accused and the same has been registered for the offences under Sections 498(A) of IPC, which is still pending. It is seen from the statements recorded from the witnesses that no specific allegations has been made as against the petitioner to attract the offence under Section 506(i) of IPC. Sofar as the offence under Section 109 of IPC is concerned all the allegations are general, bald and fague. Therefore there is no possibility to convict the petitioner for the offences under Sections 109 and 506(i) of IPC.

6. Considering the above facts and circumstances of the case, the petitioner need not undergo ordeal trial. In view of the above, the Criminal Original Petition stands allowed and the proceedings in C.C.No.58 of 2017 on the file of the learned Judicial Magistrate, Nilakottai, Dindigul District is hereby quashed. Consequently connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar (crl.side)

// True Copy //

Sub Assistant Registrar(CS)

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To

1. The Judicial Magistrate  
Nilakottai, Dindigul District
2. The Inspector of Police  
All Women Police Station  
Nilakottai, Dindigul District



3.The Additional Public Prosecutor  
Madurai Bench of Madras High Court  
Madurai

**+1 CC to M/s.K.MANIKANDAN, Advocate ( SR-85886[F] dated 09/09/2019 )**

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KM/ (24.09.2019) 4P 5C