



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.09.2019

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl OP(MD)No.23490 of 2014

and

MP(MD)Nos.1 & 2 of 2014

1.Mukhathithen Abdul Kadar Jeylaani

2.Khathija Bhanu

3.Jhamila Bheevi

4.Habbiba Harroon

5.Khadar Masthaan

... Petitioners / Accused Nos.1 to 5

Vs.

1.State, rep.by

The Inspector of Police,
All Women Police Station,
Tirunelveli Town,
Tirunelveli District.

... 1st Respondent / Complainant

2.Syed Ali Fathima

... 2nd Respondent / Defacto
Complainant

Prayer : Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to call for the records in C.C No.142 of 2014 on the file of the Judicial Magistrate Court No.IV, Tirunelveli District and quash the same.

For Petitioners : Mr.K.Sivabalan

For Respondents : Mr.A.Robinson,

Government Advocate (crl.side) for R1

Mr.S.Sathya Chidambaram for R2

ORDER

The petitioners are facing trial in C.C No.142 of 2014 on the file of the Judicial Magistrate Court No.IV, Tirunelveli District for the offences under Sections 498 A, 494 and 506(i) IPC. The second respondent herein is the defacto complainant. Since the parties are Muslims, obviously Section 494 of IPC will not be attracted against any of the accused. Be that as it may, since there are other offences, the petitioners' counsel submitted that he would establish his defence in respect of the petitioners 1, 3 and 5. He therefore seeks permission of this Court to withdraw this



petition as far as the petitioners 1, 3 and 5 are concerned. Accordingly, this petition is dismissed as withdrawn as far as they are concerned.

2.Of course, the personal appearance of the petitioners 1, 3 and 5 herein is dispensed with before the court below. The trial court shall not insist on the personal appearance of the said petitioners except at the time of answering the charges, examination under Section 313 of Cr.Pc and again at the time of pronouncement of judgment. On all other occasions, the petitioners 1, 3 and 5 herein shall be represented by their counsel.

3.The learned counsel for the petitioners wants to press this O.P as regards the petitioners 2 and 4, the sisters in law of the defacto complainant. The marriage between the first petitioner and the defacto complainant took place on 16.06.1995. The petitioners 2 and 4 got married even prior thereto. They are having matrimonial homes elsewhere. When the defacto complainant got married to the first petitioner and set up their matrimonial home, the petitioners 2 and 4 herein were not part of it. The second respondent/defacto complainant herein lodged a complaint before the All Women Police Station, Tirunelveli Town only in the year 2014. In other words, the criminal case was registered after a gap of almost 19 years. It appears that the lodging of the criminal case was motivated by the act of bigamy committed by the first petitioner herein. One can see that out of spite, the defacto complainant had roped in not only her husband but also the parents in law and also sisters in law.

4.I am of the view that continuation of the impugned proceedings against the petitioners 2 and 4 herein is a clear abuse of legal process. Quashing the impugned proceedings as far as the petitioners 2 and 4 alone would serve the ends of justice. This criminal original petition stands partly allowed. Consequently, connected miscellaneous petitions stand closed.

Sd/-

Assistant Registrar (crl.side)

// True Copy //

Sub Assistant Registrar(CS)

To

1. The Judicial Magistrate Court No.IV,
Tirunelveli District.



2.The Inspector of Police,
All Women Police Station,
Tirunelveli Town,
Tirunelveli District.

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

Crl OP(MD)No.23490 of 2014
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30.09.2019

skm

MK (24.10.2019) 3P 4C