



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 10/09/2019

PRESENT

The Hon`ble Mr.Justice G.R.SWAMINATHAN

CRL OP(MD).No.574 of 2014 and
M.P.(MD)Nos.1 & 2 of 2014

1. Kamal Batcha,
S/o. Mohamed Rowther, 1/67, Al-Ameen
Nagar, 8th Main Road, K.Pudur, Madurai.

2. Samsu Nisha,
W/o. Kamal Batcha, 1/67, Al-Ameen Nagar,
8th Main Road, K.Pudur, Madurai.

3. Nathiya,
W/o. Syed Mohamed Ibrahim, 1/67,
Al-Ameen Nagar, 8th Main Road, K.Pudur,
Madurai.

... Petitioners/Accused Nos.6,7&5

Vs

1. The State rep by
The Inspector of Police,
All Women Police Station, Theni,
(Cr.No.17/2013).

2. Jannathul Sulbia,
D/o. Jahir Hussain, Vagampuli Street,
Thenkarai, Periyakulam, Theni District.

... Respondents/Complainants

PRAYER :-

Criminal Original Petition is filed under Section 482 of CRPC to call for the records relating to the charge sheet in C.C.No.619 of 2013 on the file of Judicial Magistrate Court, Theni and quash the same as illegal in so far as the petitioners are concerned

For Petitioner : Mr.J.Sulthan Basha,
for M/s. Ajmal Associates.

For R-1 : Mr.A.Robinson,
Government Advocate (Crl.Side).



For R-2

: Mr.R.Karunanithi

ORDER : The Court made the following order :-

This Criminal Original petition has been filed for quashing the proceedings in C.C.No.619 of 2013 on the file of the Judicial Magistrate, Theni, in so far as the petitioners are concerned.

2. Heard the learned counsel on either side.

3. The second respondent herein is the defacto complainant. She lodged an information leading to registration of Crime No.17 of 2013 before the All Women police station, Theni. Investigation was conducted and final report was filed. Cognizance of the offences under Sections 406, 498(A), 494, 294(b) and 506(i) of I.P.C., and Section 4 of Tamil Nadu Prohibition of Women Harassment Act and Section 4 of the Dowry Prohibition Act was taken. There are as many as 7 accused in this case. In so far as six petitioners are concerned, cognizance has been taken only in respect of Section 494 of I.P.C. alone.

4. It is seen that the second respondent herein, namely, Jannathul Sulbia was originally married to Syed Mohamed Ibrahim/accused No.1. The third petitioner herein Nathiya is said to be his second wife. It is seen that the parties belong to Islamic religion. Section 494 of I.P.C. itself states that to attract the offence under Section 494 of I.P.C., the second marriage should be void by reason of its taking place during the life of spouse of the first marriage. Since the Islamic Law permits to contract as many as four marriages, the marriage between the first accused/Syed Mohamed Ibrahim and Nathiya is not void, even if it had taken place during the subsistence of his first wife, namely, Jannathul Beevi.

5. In this view of the matter, the impugned proceedings stand quashed in so far as the petitioners/accused Nos.5 to 7 are concerned. The Criminal Original petition stands allowed, accordingly. Consequently, connected Miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar(CS)



TO

1. The Judicial Magistrate, Theni.

2. The Inspector of Police,
All Women Police Station, Theni,

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

+1 cc to M/s.Ajmal Associates , Advocate SR.No.86317

+1 cc to Mr.R.Karunanithi , Advocate SR.No.86371

ORDER

IN

CRL OP(MD) No.574 of 2014 and

M.P.(MD)Nos.1 & 2 of 2014

Date : 10/09/2019

KM/(27.09.2019) 3P 6C