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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.10.2019

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

CRL.O.P.(MD)No.11267 of 2015

and M.P.(MD)Nos.1 and 2 of 2015 and

CRL.M.P.(MD)No.7891 of 2019

Annakodi

... Petitioner/Accused No.2

Vs.

1. The State rep. by,
The Inspector of Police,
All Women Police Station,
Dindigul,
Dindigul District.
Crime No.31 of 2014)

... Respondent/
Complainant

2. S.Thenmoli

... Respondent/
Defacto Complainant

PRAYER : Criminal Original petition is filed under Section 482 of Cr.P.C., to call for the records in connection with the impugned charge sheet in C.C.No.466 of 2014 pending on the file of the learned Judicial Magistrate No.II, Dindigul and quash the same in so far as the petitioner is concerned.

For Petitioner: Mr.D.Selvaraj
For R-1 : Mr.A.Robinson,
Government Advocate(Crl.Side)
For R-2 : Mr.G.Bhagavath Singh

O R D E R

The petitioner is figuring as accused No.2 in C.C.No.466 of 2014 on the file of the Judicial Magistrate No.II, Dindigul.

2. The second respondent herein is the defacto complainant. The second respondent got married to one Somasundaram who is none other than the brother of the petitioner herein and he has been shown as accused No.1 in this case. It appears that Somasundaram was also married to one Jayanthi. The said marriage was not dissolved in the manner known to law.

3. It was made to appear to the defacto complainant, as if the first marriage was dissolved and that Somasundaram had obtained divorce. The defacto complainant became aware of the fact that the first marriage of Somasundaram was not dissolved, only when Somasundaram called upon the Gynecologist not to incorporate his name in the relevant register, when the defacto complainant gave



birth to a child. The specific allegation of the defacto complainant is that the petitioner herein had persuaded her to believe that the first marriage was dissolved. That is why she lodged a complaint before All Women police station, Dindigul, leading to registration of Crime No.31 of 2014.

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4. Investigation was taken up and final report was filed against Somasundaram and the petitioner herein for the offences under Sections 417, 494, 498(A) and 506(i) I.P.C. r/w. 109 IPC. Cognizance of the offences was taken by the learned trial Magistrate. To quash the same, the criminal original petition has been filed by the accused No.2 alone.

5. Heard the learned counsel on either side.

6. The petitioner's counsel reiterated the contentions set out in the memorandum of grounds.

7. I am not persuaded by the said submissions. As rightly pointed out by the learned counsel appearing for the defacto complainant, there are *prima facie* allegations against the petitioner herein in the statement recorded under Section 161 of Cr.P.C. Therefore, it is for the petitioner to establish her innocence before the Court below in a regular trial. The inherent powers of this Court cannot be invoked in this case. Therefore, the criminal original petition stands dismissed.

8. It is made clear that this Court has not gone into the merits of the matter. All the defences and the contentions of the petitioner are left open. The personal appearance of the petitioner before the Court below is dispensed with.

9. The learned trial Magistrate shall insist on the personal appearance of the petitioner only when it is absolutely necessary and imperative. The petitioner shall be called upon to appear in person before the trial Court at the time of answering the charges and at the time of examination under Section 313 of Cr.P.C., and at the time of pronouncement of Judgment. On all other occasions, the petitioner can be represented through her counsel. Consequently, connected Miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar (CS)



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To

1. The Judicial Magistrate No.II, Dindigul.

2. The Inspector of Police,
All Women Police Station,
Dindigul,
Dindigul District.

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

+1 CC to MR.G.BHAGAVATH SINGH, Advocate (SR-94134[F] dated
24/10/2019)

+1 CC to MR.S.SARVAGAN PRABHU, Advocate (SR-94164[F] dated
24/10/2019)

CRL.O.P.(MD)No.11267 of 2015
and M.P.(MD)Nos.1 and 2 of 2015 and
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