



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.12.2019

CORAM

THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

Cr1.O.P.(MD)No.23936 of 2015 and

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

CRL.M.P.(MD)No.6781 of 2016

1. Selvapraba
2. David
3. Seela

... Petitioners/
Accused Nos.2, 3 and 4

Vs.

1. State rep. By,
The Inspector of Police,
All Women police station,
Nagercoil,
Kanyakumari District.
(Crime No.6 of 2015)

... Respondent/
Complainant

2. Jasbeen Deebea

... Respondent/
Defacto Complainant

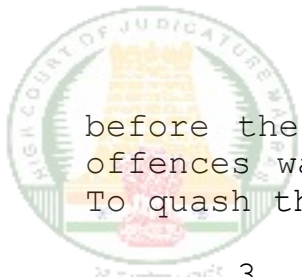
Prayer: Criminal Original petition is filed under Section 482 of Cr.P.C, to call for the records pertaining to the case in C.C.No.166 of 2015 on the file of the Judicial Magistrate No.II, Nagercoil, Kanyakumari District and quash the same so far as the petitioners are concerned.

For Petitioners	: Mr.S.Ramasamy
For R-1	: Mr.A.Robinson, Government Advocate(Crl. Side)
For R-2	: Mr.T.Antony Arul Raj

O R D E R

The petitioners are facing trial in C.C.No.166 of 2015 on the file of the Judicial Magistrate No.II, Nagercoil, Kanyakumari District. The defacto complainant is the second respondent herein. The defacto complainant Jasbeen Deebea got married to Sajan on 28.09.2005. Two children were born through the wedlock.

2. The case of the defacto complainant is that her husband Sajan developed illicit intimacy with the first petitioner herein. Therefore, she filed a criminal case before the All Women police station, Nagercoil and the same was registered in Crime No.6 of 2015. It was taken up for investigation and final report was filed against Sajan and the petitioners for the offences under Sections 498(A), 406, 506(i) of I.P.C. and Section 4 of Dowry Prohibition Act and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act,



before the Judicial Magistrate No.II, Nagercoil. Cognizance of the offences was taken and it was taken on file in C.C.No.166 of 2015. To quash the same, this criminal original petition has been filed.

3. At the very outset, it must be stated that the husband of the defacto complainant is not before me. According to the defacto complainant, the first petitioner is the concubine of her husband. But then, the Hon'ble Supreme Court in the decision reported in (2009) 6 SCC 757 (U.Suvetha V. State and others) held that the expression "relative of the husband" set out under Section 498(A) of I.P.C. will not include the girl friend or concubine. This is because they are not connected by blood or marriage and hence they cannot be considered as the relative of the husband. The second and the third petitioners are the parents of the first petitioner. Therefore, the very initiation of the impugned prosecution against the petitioners is an abuse of legal process. Therefore, the impugned proceedings stand quashed. The criminal original petition stands allowed. Of course, it will go on against the husband of the defacto complainant, Sajan.

4. The Court below is requested to fast track the proceedings and conclude the same, if possible within a period of four months from the date of receipt of a copy of this order. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (AD-II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

pmu

To:

1. The Judicial Magistrate No.II,
Nagercoil, Kanyakumari District.
2. The Inspector of Police,
All Women police station,
Nagercoil, Kanyakumari District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.T.ANTONY ARUL RAJ, Advocate (SR-103526[F]
+1 CC to M/s.S.RAMASAMY, Advocate (SR-103684[F] dated 05/12/2019)