



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)
Date : 19/09/2019

PRESENT

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

CRL OP(MD). No.484 of 2015
and
MB(MD)Nos .1 and 2 of 2015

1. Sushmitha
2. S.Rajendran
3. Sushila
4. Shanthi
5. Karthikeyan
6. Shanthakumar
7. Thavamani

... Petitioners/ Accused Nos.2 to 8

Vs

Shanti,
W/o.Venkatasubramani, C-105, Mannika
Mudaliar Veedu, Kanthinagar, Uthumalai
Pettai, Thirupur District.

... Respondent/Complainant

PRAYER :-

Criminal Original petition is filed under Section 482 of Cr.P.C., to call for the records pertaining to C.C. No. 555 of 2014 on the file of the Additional Mahila Court, Madurai and quash the same as illegal with regard to the petitioners.

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

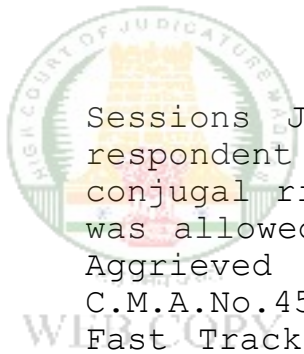
For Respondent : Mr.Selvaraj

ORDER : The Court made the following order :-

This Criminal Original petition has been filed to quash the proceedings in C.C.No.555 of 2014 on the file of the Additional Mahila Court, Madurai.

2. Heard the learned counsel on either side.

3. It is a private complaint. The respondent Shanthi was given in marriage to the first accused Venkatasubramani. Their matrimonial relationship came under strain. Therefore, the first accused Venkatasubramani filed H.M.O.P.No.7 of 2006 before the Principal



Sessions Judge, Salem, seeking dissolution of his marriage. The respondent herein filed H.M.O.P.No.6 of 2006 seeking restitution of conjugal rights. While the petition filed by the complainant herein was allowed, one filed by the husband was dismissed on 23.11.2007. Aggrieved by the same, the first accused Venkatasubramani filed C.M.A.No.45 and 46 of 2007 before the Additional District Judge, Fast Track Court No.2, Salem. Both these appeals were allowed on 25.04.2008. Challenging the same, the complainant Shanthi filed C.M.S.A.Nos.38 and 39 of 2008 before the High Court and the same were allowed on 22.04.2013.

4. In the meanwhile even before the appeal time was over, the first accused is said to have married the first petitioner herein, namely Sushmitha on 04.07.2008. Of course the respondent herein could not have immediately filed any complaint for bigamy because as on that date, the husband had obtained a decree for dissolution of marriage. After C.M.S.A.Nos.38 and 39 of 2008 were allowed, the respondent herein filed C.C.No.555 of 2014.

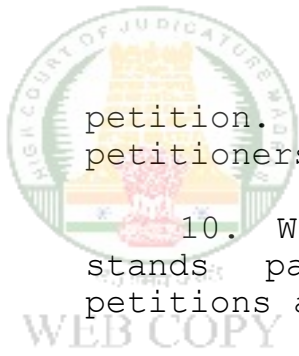
5. The first accused Venkatasubramani has not filed any quash petition. The other accused have only moved this Court. The first petitioner is said to be the second wife. Petitioners 2 and 3 are the parents-in-law. The fourth petitioner is the sister of the first accused. The fifth petitioner is the son of the fourth petitioner herein. Petitioners 6 and 7 are the parents of the first petitioner herein.

6. From the materials on record, I am of the view that there are *prima facie* materials to proceed against petitioners 1 to 3. I am of the view that the implication of petitioners 4 and 5 is unjustified. The fourth petitioner is afterall the sister of the first accused, while the fifth petitioner is the son of the fourth petitioner. Therefore, the impugned proceedings stand quashed as far as petitioners 4 and 5 are concerned. The trial of course will have to be proceeded against the remaining accused.

7. The case is of the year 2014. Therefore, the learned trial Judge is directed to conclude the trial in C.C.No.555 of 2014 on merits and in accordance with law within a period of six months from the date of receipt of a copy of this order.

8. Considering the facts and circumstances of this case, the personal appearance of petitioners 1 to 3, 6 and 7 is dispensed with. Petitioners 1 to 3, 6 and 7 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, petitioners 1 to 3, 6 and 7 can be represented through his counsel.

9. It is made clear that the observations made in this order for the purpose of disposal of this Criminal Original



petition. This will not have any bearing on the defence of the petitioners herein in the trial.

10. With these observations, the Criminal Original petition stands partly allowed. Consequently, connected Miscellaneous petitions are closed.

Sd/-

Assistant Registrar (P&A)

// True Copy //

Sub Assistant Registrar (CS)

TO

1. The Judge,
Additional Mahila Court, Madurai

+1 CC to Mr.R.KARUNANIDHI, Advocate (SR-87858[F] dated 19/09/2019)
+1 CC to M/s.AJMAL ASSOCIATES, Advocate (SR-88114[F] dated
20/09/2019)

ORDER IN
CRL OP (MD) No.484 of 2015
Date : 19/09/2019

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MK (09.10.2019) 3P 4C