



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.11.2019

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl OP(MD)No.18738 of 2016

and

Crl MP(MD)No.9362 of 2016

WEB COPY

1.Valavanthan

2.Kavitha ... Petitioners / Accused Nos.4 & 5

Vs.

1.State, rep.by the Inspector of Police,
All Women Police Station,
Aruppukottai, Virudhunagar.
(in Crime No.11 of 2013) ... 1st Respondent / Complainant

2.Indirabackiyam ...2nd respondent / defacto
complainant

Prayer : Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to call for the records pertaining to the charge sheet in C.C No.222 of 2015 on the file of the learned Judicial Magistrate, Aruppukottai and quash the same insofar as the petitioners concerned.

For Petitioners : Mr.N.Ganesan

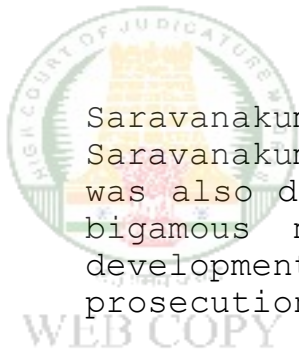
For Respondents : Mr.A.Robinson,
Government Advocate (crl.side) for R1
Mr.G.Marimuthu for R2

ORDER

The petitioners herein are shown as A4 and A5 in C.C No.222 of 2015 on the file of the Judicial Magistrate, Aruppukottai. The second respondent herein Indirabackiyam is the defacto complainant in the said case. She gave a complaint before the All Women Police Station, Aruppukottai leading to registration of Crime No.11 of 2013 against her husband Saravanakumar and others. The FIR was investigated and final report came to be filed before the Judicial Magistrate, Aruppukottai. Cognizance of the offences under Sections 498 (A), 406, 494, 506(i) IPC and Section 4 of Dowry Prohibition Act was taken and the case was taken up for trial in C.C No.222 of 2015. To quash the same, this petition has been filed.

2.Heard the learned counsel on either side.

3.The case of the prosecution is that she got married to one



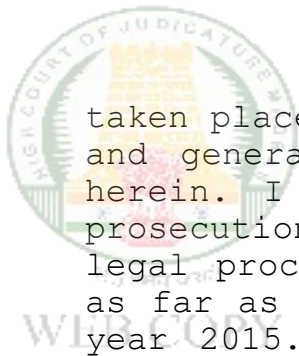
Saravanakumar in the year 1998 and a male child was also born. Saravanakumar is said to have treated her in a cruel manner. There was also demand of dowry. While so, Saravanakumar had contracted a bigamous marriage with one Uma who is shown as A6. These developments were the reasons for initiating the impugned prosecution.

4.A2 is the brother of A1. A3 is the mother of A1. A4/the first petitioner is the brother in law of A1. A5 is the sister of A1. It is stated by the learned counsel appearing for the petitioners that the marriage between the petitioners herein had taken place way back in the year 1988. The marriage between the first accused and the defacto complainant took place on 17.05.1998. The sister of A1 had already moved out of the household. It is not the case of the defacto complainant that the petitioners herein were part of the shared household. The first petitioner is said to be an official under the State Government and they are having their matrimonial home elsewhere. Even according to the defacto complainant, the only allegation made against the petitioners is that when she was having her matrimonial home at Purasalur, the petitioners along with other accused came to her house and made a common demand for dowry and took away the first accused.

5.The learned counsel appearing for the petitioners drew my attention to the fact that the defacto complainant had filed M.C No.03 of 2016 on the file of the Judicial Magistrate, Aruppukottai claiming maintenance against A1. In the said maintenance case, the defacto complainant was cross examined. The defacto complainant had clearly stated that at no point of time, she stayed at Purasalur. If that be so, the allegation made against the petitioners cannot hold water.

6.It is true that this Court while exercising its inherent powers under Section 482 of Cr.PC, for quashing the criminal proceedings, cannot appreciate evidentiary materials like the trial court or the revisional court or an appellate court. But then, what is placed for my consideration is the testimony of the defacto complainant given in a collateral proceeding between her and her husband. The following facts are not in dispute. 1)the marriage between the first accused and the defacto complainant took place only in the year 1998 while the marriage between the petitioners took place in the year 1988 itself. 2)the petitioners were not the part of the shared house hold at any point of time. 3) the allegations made against the petitioners are general in nature. 4) the petitioners are said to have gone to Purasalur and taken away the first accused after making a common demand for dowry. 5)the defacto complainant in a collateral proceeding has stated that she did not reside at Purasalur at any point of time.

7.On a perusal of the entire prosecution case, one can come to the conclusion that the bigamous marriage that is said to have



taken place between A1 and A6 had generated the impugned prosecution and general allegations have been made against the petitioners herein. I am of the view that the continuation of the impugned prosecution against the petitioners would only amount to an abuse of legal process. Therefore, the impugned prosecution stands quashed as far as the petitioners herein are concerned. The C.C is of the year 2015. The learned Trial Judge is directed to expedite the trial against the remaining accused and endeavor to ensure that the trial is concluded within a period of four months from the date of receipt of a copy of this order. The observations made in this order cannot be taken advantage of by the other accused.

8.This criminal original petition stands allowed. Connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AD I)

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/ /2020

Sub Assistant Registrar(CS)

Skm
To

1.The Judicial Magistrate, Arupukottai.

2.The Inspector of Police, All Women Police Station,
Arupukottai, Virudhunagar.

+1 CC to M/s.N. GANESAN, Advocate (SR-97682[F] dated 12/11/2019)

+1 CC to M/s.G.M.LAW OFFICE, Advocate (SR-97788[F] dated 13/11/2019)

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CrI MP(MD)No.9362 of 2016
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