



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

**Reserved on : 15.04.2019**

**Pronounced on : 15.07.2019**

CORAM

**THE HONOURABLE MR.JUSTICE B.PUGALENDHI**

**Crl.O.P. (MD)No.4452 of 2016**

**and**

**Crl.M.P. (MD)No.2282 of 2016**

1.Sethuraman

2.Karthigaipriya

3.Raju

4.Leelavathi

5.Subramani

6.Lakshmi

7.Dhanalakshmi

8.Pitchaimani

9.Sethuraman

10.Periyamuniyan

11.Lingammal

12.Siranjeevi

13.Thangapandi

14.Chinnavar @ Chinnamurugan

... Petitioners/A1 to A14

Vs.

Kanchana

... Respondent/Complainant

**Prayer:** Petition filed under Section 482 of the Code of Criminal Procedure to call for the records in C.C.No.128 of 2012, on the file of the learned Judicial Magistrate, Periyakulam, Theni District and quash the same as illegal.



For Petitioners : Mr.R.Shankar Ganesh

For Respondent : No appearance

**ORDER**

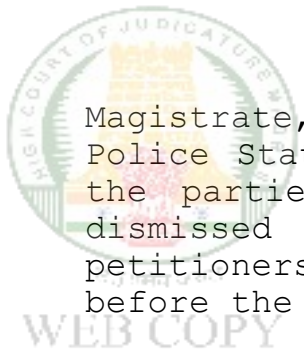
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This Criminal Original Petition has been filed by the petitioners to quash the private complaint pending against them in C.C.No.128 of 2012, on the file of the learned Judicial Magistrate, Periyakulam, Theni District.

2. The facts of the case is that the first petitioner and the respondent are couples and their marriage was solemnised on 22.05.2008. It appears the relationship between the parties came under strain and the respondent / wife, alleging harassment and dowry demand, has lodged a complaint before the All Women Police Station, Theni and also before the Social Welfare Officer, Theni. Pending these petitions, the first petitioner has filed HMOP.No.103 of 2008 to declare the marriage as null and void, as the marriage took place in a Police station under threat and coercion. But the said application was dismissed by the learned Subordinate Judge, Periyakulam, Theni District, on 30.03.2010. While so, alleging that on 10.09.2010, the first petitioner got married the second petitioner, with the aid of the other petitioners at Sivan Temple, situated in Kamatchiyamman Temple, Devathanapatti, when his marriage with the respondent / wife subsisting, the respondent / wife has lodged a complaint before the Devathanapatti Police Station on 10.09.2010 and before the Superintendent of Police, Theni on 13.09.2010 and before the other higher officials on 30.07.2011. Alleging inaction on the part of the authorities concerned, the respondent / wife has lodged the impugned private complaint before the learned Judicial Magistrate, Periyakulam, Theni District for the commission of offence under Section 494 IPC as regards the first petitioner and Sections 143, 494, 496 r/w 109 IPC as regards the other petitioners.

3. Heard Mr.R.Shankar Ganesh, learned Counsel appearing for the petitioners. There is no representation on behalf of the sole respondent.

4. Mr.R.Shankar Ganesh, learned Counsel appearing for the petitioners would submit that the alleged marriage between the first petitioner and the respondent was solemnised in a Police Station under threat and coercion and therefore, he has filed HMOP.No.103 of 2008 before the learned Subordinate Judge, Periyakulam, Theni District to declare the said marriage as null and void. However, the application was dismissed by the learned Judge on 30.03.2010. In the meantime, the respondent has filed Crl.M.P.No.1 of 2010 before the learned Judicial Magistrate, Periyakulam, Theni District for the relief under Section 12 of the Domestic Violence Act and the learned



Magistrate, holding that the marriage itself was solemnised in a Police Station and that there was a strangled relationship between the parties and they never lived together as husband and wife, dismissed the petition. While so, in order to harass the petitioners, the respondent has now foisted such a false complaint before the learned Magistrate.

5. The learned Counsel for the petitioners has also raised the following points for the consideration of this Court to quash the complaint:

5.1. There is a contradiction between the private complaint as well as the respondent's sworn statement. In her private complaint, the respondent / wife has stated that on information from her father with regard to the marriage, she went to the police station and lodged a complaint. Whereas, in her sworn statement, she has stated as if on information from her father, she went to the place of occurrence and thereafter, lodged a complaint, as if she witnessed the occurrence.

5.2. According to the respondent / wife, the so called second marriage took place at Sivan Temple, situated in Kamatchiyamman Temple, Devathanapatti on 22.05.2008. The said temple is under the control of Hindu Religious Charitable and Endowments Department and without their permission, no marriage can be solemnised in the Temple. Therefore, if really any marriage took place on the said date, the respondent / wife can very well establish the same by means of adducing documentary evidences, in this era of Right to Information Act. In the absence of any such material documents, the complaint, which is a concocted one, is liable to be quashed.

6. This Court has paid its consideration the submissions made by the learned Counsel for the petitioners and has perused the entire documents placed on record.

7. According to the respondent / wife, she married the first petitioner on 22.05.2008 and alleging harassment and dowry demand, she has lodged several complaints. The first petitioner, on the other hand, has filed HMOP.No.103 of 2008 to declare the marriage that took place on 22.05.2008 as null and void, stating that the same took place in a police station under threat and coercion. The said application filed by the first petitioner was dismissed by the learned Subordinate Judge, Periyakulam, Theni District on 30.03.2010 and it is not known whether any appeal is preferred as against the same.

8. Admittedly, the application filed by the respondent / wife in Crl.M.P.No.1 of 2010 seeking relief under Section 12 of the Domestic Violence Act as well as the proceedings in C.C.No.154 of 2009 for the offence under Section 498A IPC and Section 4 of Tamil Nadu Prohibition of Women Harassment Act, against the petitioners herein came to be negatived and no appeal has been filed as against



been discussed and came to light in the above said proceedings. Now, the allegation raised in the present complaint is that when the first marriage subsists, the first petitioner has married the second petitioner on 10.09.2010 at Sivan Temple, situated in Kamatchiyamman Temple, Devathanapatti, with the help of all the other petitioners.

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9. The petitioners 3 to 14 are the relatives of the first and second petitioners. According to the respondent / wife, on 10.09.2010, her father witnessed the occurrence and on information, she lodged the complaint. Whereas, as per her sworn statement, she herself witnessed the occurrence. But, it is not her case that on witnessing the occurrence, she attempted to prevent the marriage, due to which, there was scuffle or quarrel or injuries.

10. Moreover, if the first petitioner attempted to marry or married the second petitioner as alleged, then it would be an offence under Section 494 IPC, since his first marriage with the respondent is persisting, as on date. But, from the background of the case and the facts and circumstances, this Court feels that the petitioners 3 to 14 have been unnecessarily roped-in without any sufficient materials. Though the petitioners have taken a stand that the respondent has not enclosed any documents to show that a marriage took place on the Temple, on the said date, this Court is of the view that the respondent can very well establish her case as against petitioners 1 & 2 during the course of trial, by letting-in oral as well as documentary evidences. But, in the given circumstances of the case, this Court is of the view that the petitioners 3 to 14 have been unnecessarily roped-in, as such, the proceedings as against petitioners 3 to 14 are liable to be quashed.

11. In the result, this Criminal Original Petition is partly allowed and the private complaint is quashed insofar as the petitioners 3 to 14 are concerned. As regards petitioners 1 & 2, the trial Court is directed to proceed with the trial and decide the case, on merits and in accordance with law, as expeditiously as possible, uninfluenced by any of the findings rendered by this Court in this petition. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (P&A)

/TRUE COPY/

Sub Assistant Registrar

To

The Judicial Magistrate,  
Periyakulam,  
Theni District.



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Crl.O.P.(MD)No.4452 of 2016

Order made in  
Crl.O.P. (MD)No.4452 of 2016  
and  
Crl.M.P. (MD)No.2282 of 2016  
15.07.2019

gk

JM/25.09.2019/5P/2C