



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.10.2019

CORAM:

THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

Crl.O.P. (MD) Nos.3231 & 3232 of 2017

and

Crl.M.P. (MD) Nos.2457, 9789, 2458 & 9790 of 2017

Crl.O.P. (MD) No.3231 of 2017

- | | |
|-------------------------|--|
| 1) C.Murugesh @ Umarani | |
| 2) S.Chinnasamy | |
| 3) Jothi | |
| 4) Annandan | ... Petitioners / Accused
Nos. 1 to 4 |
| 5) Veeramuthu | |
| 6) Sasi @ Sasi Kannan | ... Petitioners/ Accused
Nos.8 & 9 |

Crl.O.P. (MD) No.3232 of 2017

- | | |
|---|---|
| 1) Ganesan | |
| 2) Chinnakalai | |
| 3) Murugasan | |
| 4) Bhagavathi | ... Petitioners/ Accused
Nos.5,6,10 & 11 |
| Vs. | |
| 1. State rep., by
The Inspector of Police,
All Women Police Station,
Srirangam, Trichy City,
Trichy District. | ... R-1/Complainant in both
the cases |
| 2. P.Shanmugam | ... Respondent/ De facto
Complainant in both cases |

COMMON PRAYER: Criminal Original Petitions filed under Section 482 of the Code of Criminal Procedure, to call for the records relating to the F.I.R. in Crime No.14 of 2016 on the file of the Inspector of Police, All Women Police Station, Srirangam, Trichy District and quash the same against the petitioners.

In both cases:

For Petitioners	: Mr.I.Arockia Selvaraj
For R-1	: Mr.S.Chandrasekar, Additional Public Prosecutor
For R-2	: Mr.A.Saravanan



C O M M O N O R D E R

Since the issued involved in both the Criminal Original Petitions are one and the same, they are disposed of by this common order.

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2. These Criminal Original Petitions have been filed seeking to quash the F.I.R. in Crime No.14 of 2016 registered by the first respondent police for the offenses under Sections 494, 506(ii) r/w 109 of I.P.C.

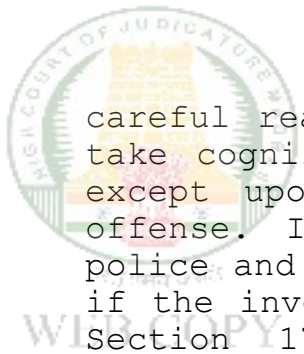
3. The sum and substance of the complaint that has been given by the second respondent, who is the husband of the first petitioner, is to the effect that, the first petitioner, who is the legally wedded wife, has conducted second marriage when the first marriage was in subsistence and when the same was questioned, she has threatened with dire consequences. Based on this complaint, an F.I.R came to be registered for offences under Sections 494, 506(ii) r/w 109 of I.P.C.

4. The learned counsel for the petitioners submitted that the first petitioner is a government servant, who is working as a police constable and a false case has been given against her and all other family members. The learned counsel further submitted that the respondent police ought not to have registered an FI.R. since an offence under section 494 of I.P.C can only be filed by way of a complaint by virtue of Section 198 of CrP.C.

5. The learned counsel appearing on behalf of the second respondent submitted that the second respondent died due to illness and therefore, the complaint has been prosecuted through his legal heirs. The learned counsel submitted that there are sufficient materials to show that the first petitioner has conducted the second marriage even when the first marriage was in subsistence and the entire marriage function has been captured in the video camera. The learned counsel submitted that even this Court comes to a conclusion that only a complaint can be filed for the offense under Section 494 of I.P.C., liberty must be granted to the legal heirs of the second respondent to prosecute the complaint in accordance with law.

6. This Court heard the submissions made by the learned Additional Public Prosecutor, appearing on behalf of the respondent police and the learned counsel appearing for the petitioners as well as for the second respondent.

7. A reading of the complaint given by the second respondent shows that the first petitioner has conducted second marriage when the first marriage was in subsistence and this was done with the active connivance of the family members of the first petitioner. A



Careful reading of Section 198 of Cr.P.C. shows that no Court can take cognizance of an offense punishable under Chapter XX of IPC, except upon the complaint made by some person aggrieved by the offense. In the present case, a complaint has been given to the police and the police have proceeded to register and an F.I.R. Even if the investigation is completed and a final report is filed under Section 173(2) of Cr.P.C., the concerned Court cannot take cognizance of the final report since there is a bar under the said provision and the cognizance can be taken only when the complaint is filed.

8. Therefore, no useful purpose would be served in keeping the F.I.R. pending on the file of the first respondent. The same has to be necessarily interfered by this Court in exercise of its jurisdiction under Section 482 of Cr.P.C.

9. In the result, the F.I.R. in Crime No.14 of 2016, pending on the file of the first respondent is hereby quashed. It is left open to the legal representatives of the second respondent to prosecute the case by way of filing a private complaint, in accordance with law and this order will not be a bar to maintain such complaint, if it is otherwise permitted by law.

10. Accordingly, these Criminal Original Petitions are allowed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (crl.side)

// True Copy //

Sub Assistant Registrar(CS)

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To

1. The Inspector of Police,
All Women Police Station,
Srirangam, Trichy City,
Trichy District.

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

+2 CC to Mr.A.SARAVANAN, Advocate (SR-94740,94741

+2 CC to Mr.I.AROCKIASSELVARAJ, Advocate (SR-95191[F] dated
31/10/2019)

Common Order made in
Crl.O.P.(MD) Nos.3231 &3232 of 2017

Dated:25.10.2019

MK (29.11.2019) 3P 7C

<https://hcservices.ecourts.gov.in/hcservices/>