



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 06.09.2019

CORAM:

THE HON'BLE MR.JUSTICE N. ANAND VENKATESH

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Crl.O.P.No.614 of 2017

and

Crl.M.P(MD)Nos.4636 & 548 & 549 of 2017

1.A.Madhuri
2.K.R.Appasamy
3.A.Thirunageswari
4.A.Rakesh
5.A.Raghavi

... Petitioners / Accused Nos.2,5,6,9,10

Vs.

1.K.Soundarapandian
2.R.Lenin Ramasamy
3.P.R.Ramachandran
4.R.Jayalakshmi
5.R.Durai Vaithilingam
6.R.Uma

... 1st Respondent / Complainant

...Respondents 2 to 6 / Accused

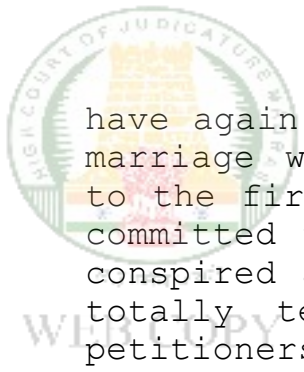
Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C, to call for the records pertaining to C.C.No.353 of 2016 on the file of the learned Judicial Magistrate / Additional Mahila Court, Madurai and quash with respect to the petitioners / accused herein as illegal.

For Petitioners	: Mr.W.Pamelin
For R1	: Mr.K.K.Kannan
For R3, R4 & R6	: Mr.S.Deenadhayalan
For R2 & R5	: No Appearance

O R D E R

This petition has been filed challenging the criminal complaint initiated by the first respondent for an offence under Sections 494, 418, 34 r/w Section 120 (B) and 109 of IPC., and Section 4 of the Tamil Nadu Prohibition of Harassment of Women Act, 1998.

2.The allegations that have been made in the complaint is that the second respondent / A1 has married the daughter of the first respondent and they were living at United States of America and there is also a daughter through the said marriage. While so, suppressing the first marriage, second respondent / A1 is said to



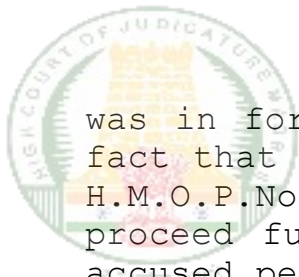
have again married the first petitioner on 17.02.2016 and the said marriage was also registered on 25.02.2016. Therefore, according to the first respondent / complainant, the second respondent / A1 committed the offence of bigamy and all the other accused persons conspired and have abetted the commission of the crime. There are totally ten accused persons shown in the complaint and the petitioners are arrayed as A2, A5, A6, A9 and A10.

3.The learned counsel for the petitioners submitted that the first petitioner was the wife, who got married to A1, the second petitioner is the father of the first petitioner, the third petitioner is the mother of the first petitioner, the fourth petitioner is the brother of the first petitioner and the 5th petitioner is the sister of the first petitioner. He further submitted that the petitioners were not aware about the fact that second respondent / A1 was already married to the first respondent's daughter. This marriage was concealed and A1 along with his parents approached the family of the first petitioner and arranged for the marriage. Believing the words of A1 and his parents, the marriage was also finalized and was conducted as per Hindu Rites and Customs and the marriage was also registered on 25.02.2016.

4. The learned counsel for the petitioners further submitted that the first petitioner was not taken to USA by A1 and she was made to stay with her family at Tanjavur. While so, the petitioners received the information that A1 has already married to the first respondent's daughter and that there is a girl child through the said marriage and this vital fact was concealed by A1 and his family members. The learned counsel, therefore, submitted that the petitioners themselves are victims in this case.

5. The learned counsel for the petitioners further submitted that after knowing about the first marriage, the first petitioner filed a petition in H.M.O.P.No.112 of 2016, before the Sub-Court, Pattukottai to declare the marriage as a nullity and the Sub-Court, Pattukottai by a judgment and decree dated 19.03.2019, declared the marriage as a nullity and thereby the marriage has been dissolved. The learned counsel for the petitioners concluded her arguments by submitting that subsequently, the first petitioner has got married to some other person and she is living happily with him. The learned counsel for the petitioners, therefore, pleaded before this Court to quash the proceedings, insofar as the petitioners are concerned.

6. The learned counsel appearing on behalf of the first respondent, who is the father of the first wife of A1 submitted that the first respondent's daughter was cheated by A1 by marrying the first petitioner for the second time, when the first marriage



was in force. The learned counsel submitted that in view of the fact that the marriage itself has been declared to be a nullity in H.M.O.P.No.112 of 2016, the first respondent must be permitted to proceed further with the criminal complaint as against the other accused persons.

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7. The respondents 2 to 6 in this petition are not necessary parties and their names are deleted.

8. This Court has carefully considered the submissions made on either side and the materials available on record.

9. In the considered view of this Court, the petitioners themselves are victims of the circumstances. A1 never informed the first petitioner or her parents about the first marriage and concealing the same the second marriage was conducted and it was also registered. Only later the petitioners came know about the first marriage and immediately steps were taken to declare the second marriage as a nullity. The marriage has also been declared as nullity in H.M.O.P.No.112 of 2016, by judgment and decree dated 19.03.2019.

10. In view of the above development, the Criminal proceedings as against the petitioners is an abuse of process of the Court and the same requires interference of this Court in exercise of its jurisdiction under Section 482 of Cr.P.C.

11. In the result, the proceedings in C.C.No.353 of 2016 on the file of the learned Judicial Magistrate / Additional Mahila Court, Madurai, is hereby quashed insofar as the petitioners are concerned. The proceedings can go on as against the other accused persons, who have been shown in the criminal complaint.

12. Accordingly, this Criminal Original Petition is allowed and the learned Judicial Magistrate / Additional Mahila Court, Madurai, is directed to complete the proceedings in C.C.No.353 of 2016 as against the other accused persons 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 (crl.side)

// True Copy //

Sub Assistant Registrar (CS)



To

1.The Judicial Magistrate / Additional Mahila Court,
Madurai.

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

+1 CC to M/s.K.K.KANNAN, Advocate (SR-85843[F] dated 09/09/2019)

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and
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