



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.02.2020

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CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.O.P.No.18648 of 2013
and M.P.No.1 of 2013 and 1 of 2014

1.C.Manivanna Bhoopathy,
2.Rajeswari,
3.V.Chidhambaram,
4.Santhabai @ Santhamani,
5.M.Rajendran,
6.V.Chandrasekar,
7.S.Thirukumar.

...Petitioners

-Vs-

S.Amudha

... Respondent

Prayer: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, to call for the records pertaining to the case in C.C.No.116 of 2013 on the file of the Judicial Magistrate No.III, Erode & District and quash the same.

For Petitioners : Mr.I.C.Vasudevan

For Respondent : Mr.K.Thilageswaran

O R D E R

The respondent filed a private complaint as against the petitioner under Section 200 Cr.P.C., before the learned Judicial Magistrate No.3, Erode, for the offences under Sections 120(b) and 494 IPC. The learned Magistrate has taken cognizance of the complaint and taken on file in C.C.No.116 of 2013 and sent summons to the petitioners. After receiving the summons, the petitioners/accused have filed the present petition, invoking Section 482 Cr.P.C. to quash the complaint against them.

2.The learned counsel for the petitioners would submit that the first respondent filed a petition seeking divorce in HMOP.No.76 of 2005 and the respondent



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herein/wife has filed a petition for restitution of conjugal rights in HMOP.No.188 of 2005. On 28.11.2008, the petition filed by the first petitioner/husband was allowed and divorce was granted. The petition filed by the respondent/wife seeking restitution of conjugal rights was dismissed. He further submitted that after the appeal time was over, he conducted second marriage on 09.01.2009. In order to wreck vengeance and to harass the petitioner and his family, the respondent has filed the present petition. Therefore, the present complaint is liable to be quashed.

3.The learned counsel appearing for the respondent/wife would submit that he got the copy of the order only on 05.01.2009 and thereafter he filed the appeal, in time. He further submitted that 1st petitioner even before completion of the appeal time had conducted second marriage. All the petitioners, who were relatives of the 1st petitioner colluded together and performed the second marriage and only to get away from the clutches of law, they now states that they have conducted the second marriage only after getting divorce. Therefore, this petition is liable to be dismissed.

4.Heard both sides and perused the records.

5.Admittedly, the first petitioner is the husband and the respondent is the wife. Though, the first petitioner filed HMOP.No.76 of 2005 seeking divorce and the respondent filed a petition seeking restitution of conjugal rights in HMOP.No.188 of 2005 and the first petitioner/husband got succeeded and obtained divorce by an order dated 28.11.2008. He has also married the second petitioner on 09.01.2009. The petitioners 3 to 7 are relatives, who have instigated and participated in the second marriage of the 1st petitioner with 2nd petitioner. Whether all the petitioners colluded together in the performance of the second marriage, whether the second marriage was conducted before exhausting the appeal time, are the matters to be decided after the trial and it cannot be tested before this Court at this stage. Moreover, on a perusal of the complaint, there are specific allegations as against all the petitioners. Under such circumstances, this Court is not inclined to exercise its power under Section 482, to quash the complaint. It is for the petitioners to prove before the trial Court, during the trial that they have not committed any offence as alleged by the respondent in the complaint.



6. Accordingly, this Criminal Original Petition is dismissed. Connected miscellaneous petitions are also closed.

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Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

To

1. The Judicial Magistrate No. III,
Erode.

2.-Do- Thro The Chief Judicial Magistrate,
Erode District.

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ln[co]
srg 12/03/2020