

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.10.2020

CORAM:

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

CRL.O.P.NO.15587 OF 2015

AND

M.P.NOS.1 & 2 OF 2015

S.P.Seshamanikandan .. Petitioner/Accused 1

Vs.

1.State represented by
The Inspector of Police,
All Women Police Station,
Avinashi,
Tiruppur District.
(Crime No.12 of 2014) .. Respondent/Complainant

2.S.Gayatri .. Respondent/
de facto Complainant

Criminal Original Petition filed under Section 482 Cr.P.C.
to call for the records in C.C.No.47 of 2015 on the file of the
Judicial Magistrate Court, Avinashi and quash the same.

For Petitioner : Mr.G.Mutharasu

For R1 : Mr.L.Charles
Government Advocate (Crl.Side)

For R2 : No Appearance

O R D E R

This criminal original petition has been filed seeking to
call for the records in C.C.No.47 of 2015 on the file of the
Judicial Magistrate Court, Avinashi and quash the same.

2. For the sake of convenience, the parties will be
referred to by their names.

3. Gayatri (de facto complainant) and Seshamanikandan (A1)
loved each other and since they belonged to different castes,

they had their marriage registered on 21.02.2002 without the knowledge of their parents; after their parents came to know of it, their marriage was solemnized on 11.03.2002; to them were born two sons viz., Saravanan and Prathap.

4. While that being so, it is alleged by Gayatri that Seshamanikandan (A1) married Bhuvaneshwari (A2) subsequently and has children through her. It is further alleged that Seshamanikandan (A1) and Bhuvaneshwari (A2) inflicted cruelty on her, retained her Sthridhana properties and started intimidating her.

5. On these allegations, Gayatri lodged a complaint, based on which, a case in Crime No.12 of 2014 was registered and after completing the investigation, the police filed a final report in C.C.No.47 of 2015 in the Court of the Judicial Magistrate, Avinashi, for the offences under Sections 498-A, 406, 494 and 506(I) IPC, against Seshamanikandan (A1) and Bhuvaneshwari (A2), for quashing which, Seshamanikandan (A1) has filed the present petition under Section 482 Cr.P.C.

6. Heard Mr.G.Mutharasu, learned counsel for Seshamanikandan (A1) and Mr.L.Charles, learned Government Advocate (Crl.Side) appearing for the first respondent/State.

7. The learned counsel for Seshamanikandan (A1) submitted that the prosecution have not filed any satisfactory materials to prove the second marriage of Seshamanikandan (A1) with Bhuvaneshwari (A2), except the birth certificate of the children allegedly born to them and the marriage registration certificate.

8. In the opinion of this Court, these are by itself sufficient for framing of charges and is always open to the prosecution to adduce additional evidence including asking for DNA profiling of Seshamanikandan (A1), Bhuvaneshwari (A2) and their children. The statement of Gayatri shows that she was subjected to cruelty by Seshamanikandan (A1) and Bhuvaneshwari (A2) and her jewels have been illegally retained by them. Though, the offence under Section 494 IPC is non-cognizable, yet, in the light of the judgment of the Supreme Court in Ushaben Vs. Kishorbhai Chunilal Talpada and Others¹, a police report can be filed for the said offence along with the offence under Section 498-A IPC.

9. The learned counsel for Seshamanikandan (A1) submitted that there are no sufficient materials for the offence under Section 506(I) IPC, inasmuch as, the date on which, the alleged criminal intimidation was done has not been mentioned in the final report.

1 (2012) 6 SCC 353

10. There appears to be force in the submission of the learned counsel for Seshamanikandan (A1). A mere statement that the accused had threatened the petitioner without anything more as in the present case, may not be sufficient to frame a charge under Section 506(I) IPC. However, there are sufficient materials for the other offences viz., Sections 498-A, 406 and 494 IPC.

In the result, this criminal original petition is partly allowed. The charge under Section 506(I) IPC alone is quashed and the trial shall go on qua other offences in C.C.No.47 of 2015 before the Judicial Magistrate, Avinashi. Connected Crl.M.Ps. are closed. The petitioner is directed to appear before the trial Court on 01.12.2020 at 10.30 a.m. and take part in the trial.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

nsd

To

1. The Judicial Magistrate,
Avinashi.
2. The Inspector of Police,
All Women Police Station,
Avinashi, Tiruppur District.
3. The Public Prosecutor,
Madras High Court,
Chennai - 600 104.

Crl.O.P.No.15587 of 2015

SR(CO)
CS/19/10/2020

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