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IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 24.09.2020

DELIVERED ON : 13.10.2020

CORAM:

THE HON'BLE MR. JUSTICE P.N. PRAKASH

CrI.O.P. No.14945 of 2020 in CrI.A.SR.No.24423 of 2020

P. Suresh Babu

..Petitioner

.vs.

1 N. Priya

2 T. Natarajan

3 Baby

4 A.Ramesh

..Respondents

Criminal Original Petition filed under Section 378(4) Cr.P.C. seeking to grant special leave to prefer appeal from the order of acquittal dated 17.07.2020 passed by the District Munsif-cum-Judicial Magistrate, Ranipet in C.C. No.79 of 2016.

For petitioner: Mr. R. Anbalagan

ORDER

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

2 Priya (A.1) is the daughter of Natarajan (A.2) and Baby (A.3). Priya (A.1) got married to Suresh Babu (de facto complainant/petitioner herein) on 27.08.2004 and to Priya was born Jeeva Varshini. Their matrimonial life ran into rough weather and alleging that Suresh Babu was suspecting her fidelity and the paternity of Jeeva Varshini, Priya preferred H.M.O.P. No.74 of 2011 in the Sub Court, Arani, seeking divorce on the ground of cruelty. Suresh Babu entered appearance in that case. However, he was set ex parte and an ex parte decree was passed in H.M.O.P. No.74 of 2011 on 19.02.2015 in favour of Priya. Thereafter, Priya got married to Ramesh (A.4) on 22.03.2015.



3 In the meanwhile, Suresh Babu filed a petition in I.A. No.13 of 2015 in H.M.O.P. No.74 of 2011 before the Sub Court, Arani, on 10.03.2015, to set aside the ex parte order dated 19.02.2015 passed against him in H.M.O.P. No.74 of 2011. He also filed a private complaint on 07.04.2016 in the Court of the District Munsif-cum-Judicial Magistrate, Ranipet against Priya, Natarajan, Baby and Ramesh under Sections 494 and 497 read with Section 109 IPC, which was taken on file as C.C. No.79 of 2006. In the meanwhile, the ex parte decree passed on 19.02.2015 in H.M.O.P. No.74 of 2011 in favour of Priya was set aside on 10.07.2015. Charges were framed for the aforesaid offences against Priya, Natarajan, Baby and Ramesh. Suresh Babu examined himself as P.W.1 and his father Palani as P.W.2 and marked three exhibits. From the side of the accused, no witness was examined nor any document marked.

4 When the accused were questioned under Section 313 Cr.P.C. about the incriminating circumstances appearing against them, they denied the same.

5 After considering the evidence on record and hearing either side, the trial Court, vide judgment and order dated 17.07.2020 in C.C. No.79 of 2016, acquitted the accused. Now, Suresh Babu has preferred the instant criminal original petition seeking special leave of this Court under Section 378(4) Cr.P.C. to file an appeal against the said acquittal.

6 Heard Mr. R. Anbalagan, learned counsel for Suresh Babu, who submitted that the trial Court had failed to take into consideration the marriage registration certificate (Ex.P.2) which proves the marriage of Priya and Ramesh on 22.03.2015 and therefore, their acquittal is erroneous.

7 This Court gave its anxious consideration to the aforesaid submission of the learned counsel for Suresh Babu.

8 As adverted to above, even according to Suresh Babu, H.M.O.P. No.74 of 2011 was filed in 2011 and an ex parte decree in favour of Priya was passed on 19.02.2015 and Priya got married to Ramesh on 22.03.2015 after the dissolution of the marriage. The contention that subsequently, the ex parte decree was set aside on 10.07.2015 on the application made by Suresh Babu is a different matter. For proving the offence of bigamy, it is essential for the complainant to prove that the accused underwent religious matrimonial ceremonies for completing the second marriage. Proof of this fact is miserably absent in the present case and therefore, the trial Court was justified in acquitting the accused. This Court does not find any perversity or illegality in the order passed by the trial Court warranting interference.



In view of the above, this criminal original petition stands dismissed. As a sequel, the criminal appeal stands rejected at the SR stage itself.

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Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The District Munsif-cum-Judicial Magistrate
Ranipet
2. The Public Prosecutor
Madras High Court
Chennai 600 104.

CrI.O.P. No.14945 of 2020
in
CrI.A.SR.No.24423 of 2020

rr ii (11/11/2020)