

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.09.2020

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.No.23423 of 2014 and
Crl.M.P.No.1 of 2014

Sasikala

...Petitioner

Vs.

1. The State rep by,
The Inspector of Police,
W-15, All Women Police Station,
Royapuram, Chennai-13.
Crime No.6 of 2013.

2. R.Suguna

...Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records relating to the impugned charge sheet in C.C.No.2243 of 2014 on the file of the learned XVI Metropolitan Magistrate, George Town, Chennai and quash the same insofar it relates to this petitioner herein.

For Petitioner : Mr.K.Thilagaraj

For R1 : Mr.K.Prabakar,
Additional Public Prosecutor

For R2 : Ms.Vrinda Ramesh,
Legal Aid Counsel

ORDER

The petitioner/A2, who is facing trial in C.C.No.2243 of 2014, for offence under Section 498(A) and 506(ii) of IPC, pending on the file of the XVI Metropolitan Magistrate Court, George Town, Chennai, has filed the quash petition.

2.Despite notice served to the 2nd respondent and her name printed in the cause list, she failed to appear before this Court. Hence, this Court appointed Ms.Vrinda Ramesh as Legal Aid Counsel for the 2nd respondent.

3.The gist of the case is that the 2nd respondent married A1 on 19.06.2013 in a temple at Royapuram, Chennai. The 2nd respondent before the marriage developed relationship with A1, who used to visit Mathuranthagam, where 2nd respondent was residing. After the marriage, she was informed by her husband/A1 that he had already married the petitioner/A2 and since the petitioner was unable to forbear a child, he married the 2nd respondent. Since the 2nd respondent married against the wish of her family members, no one questioned the 2nd respondent and A1. Later A1 started demanding Rs.5,00,000/- as dowry. When the 2nd respondent questioned the same, A1 threatened her. Thereafter, A1 brought the petitioner. Both the petitioner and A1 started living together, ill-treating the 2nd respondent like a house maid. Hence, the 2nd respondent lodged a complaint to the Commissioner of Police, Chennai. Thereafter, the complaint was forwarded to the Dowry Prohibition Officer in R.C.No.13362/COP/VISIT/13. The Dowry Prohibition Officer conducted enquiry, submitted a report to the 1st respondent, who on conclusion of investigation by examining the witnesses, filed charge sheet before the learned XVI Metropolitan Magistrate, George Town, Chennai on 21.12.2013 and the same was taken on file as C.C.No.2243 of 2014, against which, the petitioner/A2 filed the above petition.

4.The learned counsel for the petitioner submitted that the petitioner is the legally wedded first wife of A1. A1 by suppressing the earlier marriage, married the 2nd respondent. He further submitted that the 2nd respondent admitted A1 informed about his earlier marriage with the petitioner and since she was unable to forbear a child, he was not happy with the marriage life and taking pity on A1, the 2nd respondent knowing about the first marriage, married A1. According to the 2nd respondent, she led a happy married life for 106 days and thereafter, A1 started demanding dowry. The learned counsel further submitted that the petitioner and A1 started ill-treating and caused harassment to the 2nd respondent. In this case, the 1st respondent during investigation, examined the witnesses/LW1 to LW6. LW1 is the 2nd respondent. LW2 and LW3 are the house owner and co-tenant. LW4 and LW5 are the brother-in-law and sister of the 2nd respondent. LW6 is the Investigating Officer.

5.LW1 in her statement under Section 161 Cr.P.C., stated that she was aware about the earlier marriage of A1 with the petitioner and the marriage between the 2nd respondent and A1 took place on 19.06.2013, the petitioner said to have joined them on 08.08.2013. Thereafter, A1 started ill-treating her and she left the matrimonial house on 09.08.2013, lodged a complaint. Other than this, there is no mention about the petitioner ill-treating the 2nd respondent and subjecting her to cruelty. LW2 and LW3/house owner and tenant have not stated

anything about the petitioner. LW4 and LW5/brother-in-law and sister of the 2nd respondent stated that the marriage between the 2nd respondent and A1. The 2nd respondent informing about the petitioner joining A1. Apart from this, there is no overtact against the petitioner/A2.

6.The learned counsel for the petitioner further submitted that the 2nd respondent married A1 knowing about the earlier marriage with the petitioner. As could seen from uncontroverted statement of witnesses. There is nothing to show that the petitioner and A1 caused any harassmt or cruelty to the 2nd respondent. Hence, he prayed to quash the proceedings against the petitioner.

7.The learned counsel for the 2nd respondent submitted that the contention of the petitioner is that the petitioner cannot be prosecuted under Section 498-A IPC since the 2nd respondent got married A1 knowing about the first marriage of A1 with the petitioner, is on a wrong premise. The Hon'ble Apex Court in the case of "Reema Aggarwal Versus Anupam and others reported in 2004 3 SCC 199" had held that the expression "husband" to cover a person who enters into marital relationship and under the colour of such proclaimed or feigned status of husband subjects the woman concerned to cruelty or coerces her in any manner or for any of the purposes enumerated in the relevant provisions of Sections 304-B and 498-A IPC.

8.In support of her contention, she relied upon the judgment of Hon'ble Apex Court in the case of "A.Subash Babu Versus State of Andhra Pradesh and another in S.L.P.(Crl.)No.6349 of 2010". She further submitted that the 2nd respondent/LW2, LW4 and LW5 have clearly stated their her statement about the harassmt and cruelty caused by the petitioner and A1.

9.The learned Additional Public Prosecutor appearing for the 1st respondent submitted that the 2nd respondent initially lodged the complaint before the Commissioner of Police, Chennai, which was forwarded to the Dowry Prohibition Officer. The Dowry Prohibition Officer conducted enquiry, found there is no dowry demand in this case. Thereafter, the report was forwarded to the 1st respondent Police, who registered a case in Crime No.6 of 2013, for offence under Section 498(A) and 506(ii) of IPC. During enquiry, other than the investigating officer, five witnesses were examined. LW1 is the 2nd respondent. LW2 and LW3 are the house owner and co-tenant. LW4 and LW5 are the brother-in-law and sister of the 2nd respondent. LW6 is the Investigating Officer.

10.The learned Additional Public Prosecutor further submitted that LW2 and LW3, who are the house owner and tenant,

have not stated anything about the petitioner was living with the 2nd respondent and causing any harassment and cruelty. They have only stated that for a period of ten days, the 2nd respondent and A1 resided there and thereafter, the 2nd respondent left, due to some dispute with her husband/A1. LW4 and LW5, the brother-in-law and sister of the 2nd respondent have stated about the marriage of the 2nd respondent with A1 and they were informed by the 2nd respondent about the harassment caused to her. He further submitted that the 2nd respondent is now married and settled in Kanyakumari and she is leading a peaceful marriage life and she is not willing to further pursue the case.

11.This Court considered the rival submissions and perused the materials available on record.

12.It is admitted case that the 2nd respondent married A1, knowing about the first marriage of A1 with the petitioner. Further, there is no materials to show that the petitioner and the 2nd respondent were lived together. Except the bald allegations against the petitioner, no specific overtact made against the petitioner, none of the witnesses have stated against her.

13.A perusal of the statement of witnesses would reveal that only vague and cryptic allegations are made against the petitioner with no specific allegation in respect of demand for dowry or harassment in any manner. In the absence of same, the continuation of the proceedings would amount to abuse of process of law. Hence, the proceedings in C.C.No.2243 of 2014, pending on the file of the XVI Metropolitan Magistrate Court, George Town, Chennai is quashed as against the petitioner/A2 alone. This Criminal Original Petition is, accordingly, allowed. Consequently, the connected Miscellaneous Petition is closed.

14.This Court place appreciations to Ms.Vrinda Ramesh, Legal Aid Counsel for the 2nd respondent for preparation and effective arguments made in this case.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

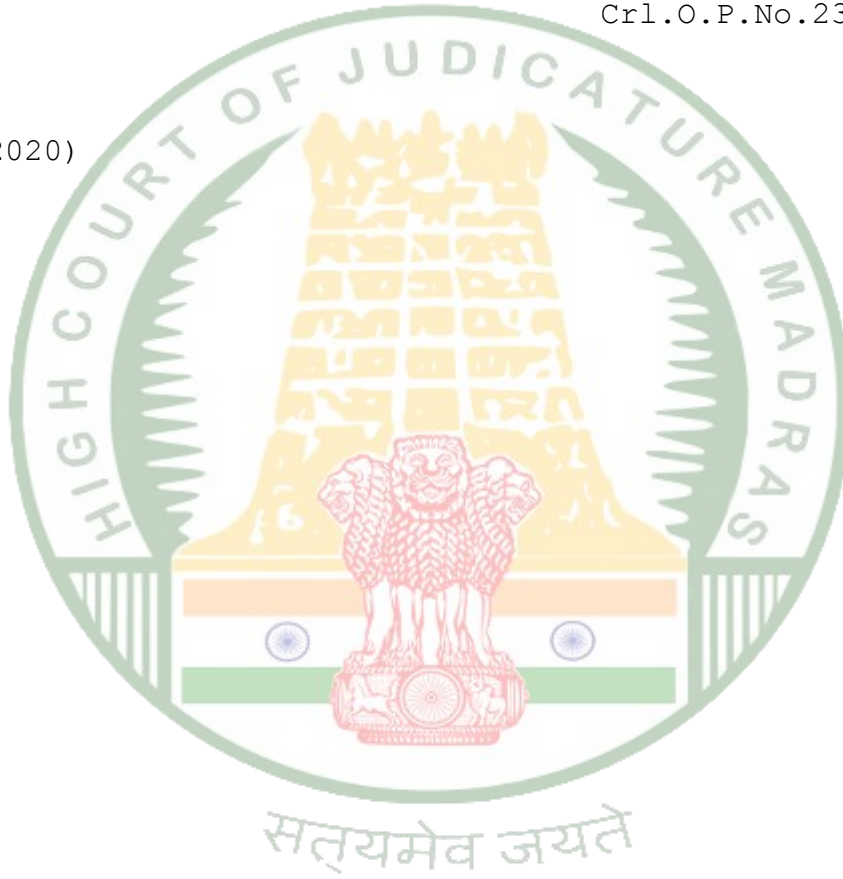
To

1. The XVI Metropolitan Magistrate Court,
George Town, Chennai.

2. The Inspector of Police,
W-15, All Women Police Station,
Royapuram, Chennai-13.
3. The Secretary,
Legal Aid, Service Authority,
High Court, Madras.
4. The Public Prosecutor,
High Court, Madras.

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CP(CO)
RV(22/10/2020)



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