



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.06.2020

CORAM:

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Crl.O.P. (MD)No.16383 of 2016

and

Crl.M.P. (MD)No.8004 of 2016

WEB COPY

1.J.Pushpavalli

2.P.Rajkumar

...Petitioners/Accused No 3& 4

vs.

N.Jeyarani

...Respondent/Complainant

PRAYER: Criminal Petition filed under Section 482 of Cr.P.C., to call for the records pertaining to the case in C.C.No.83 of 2016, on the file of the Additional Judicial Magistrate, Mahila Court, Madurai and quash the same against these petitioners.

For Petitioners

: No Appearance

For Respondent

: Mr.I.Robert Chandrakumar
for Mr.S.M.A.Jinnah

ORDER

Petition perused.

2.Heard the learned counsel appearing for the respondent.

3.This Criminal Original Petition has been filed to quash the criminal proceedings initiated by the respondent through a private complaint under Section 200 of Cr.P.C. The allegation against these petitioners is that the respondent/de-facto complainant was married to one Nagarajan/first accused on 22.05.1988 at Madurai Chamber of Commerce Thirumana Mandapam. Since the respondent/de-facto complainant hails from ordinary middle class family, she was not properly treated by the first accused and his family members. Later, the first accused started acquiring wealth by carrying on textile business. At that stage, he got acquaintance with one Rathna and married her illegally. This was known by these petitioners, who were arrayed as 3rd and 4th accused. According to the respondent/de-facto complainant, these two petitioners participated in the second marriage of the first accused/Nagarajan with Rathna and abetted for the said marriage. Specific allegation found in the private complaint is that, her husband Nagarajan, when the first marriage was in subsistence has married Rathna and also begot a child through her. For the said illegal marriage, these petitioners assisted and abetted.

4.On reading of the complaint, this Court finds that except the said reference about these petitioners who are shown as 3rd and 4th accused in the private complaint, there is no overt act attributed to them to the alleged crime of bigamy. The said sentences only say that these petitioners abetted the Nagarajan and Rathna to get marry. Not even the date and place of marriage is mentioned in the complaint.



5.The learned counsel for the respondent would submit that since the learned Magistrate has taken cognizance of the private complaint and has issued process, the second accused/Rathna shall be in a position to adduce necessary evidence against these petitioners how they abetted the crime of bigamy.

6.This Court is of the view that in a private complaint, the complainant cannot improve her case in the course of trial more than what disclosed at the first instance in the complaint. As far as the other two accused A1 and A2 are concerned, the respondent has furnished a birth certificate of the child born to the Rathna through Nagarajan. Hence, material available to proceed.

7.For the said reasons, when the said Rathna (A2) approached this Court for quash the petition in Crl.O.P.(MD)No.16475 of 2016, this Court dismissed her petition to quash the complaint and directed her to face the trial. Whereas, these two petitioners, who were shown as A3 and A4 stand on different footing. They are roped in the private complaint alleging that they aided Nagarajan to marry Rathna in the temple and they attended the marriage. It is a very weak piece of allegation without having any evidence *prima facie* to show that these two petitioners were present in the alleged marriage of Nagarajan with Rathna.

8.Therefore, I find merits in this petition and hence, this Criminal Original Petition stands allowed and the private complaint against these two petitioners is quashed. However, against remaining accused, the trial Court is directed to complete the trial within a period of four months from the date of receipt of a copy of this order. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (records)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

sjj

To

The Additional Judicial Magistrate,
Mahila Court, Madurai.

+1 CC to M/s.G.PRABHU RAJADURAI, Advocate (SR-13092[F] dated
04/06/2020)

Crl.O.P.(MD)No.16383 of 2016
03.06.2020

KB(11.06.2020) 2P 3C

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