



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.10.2020

CORAM:

THE HON'BLE MR.JUSTICE **G.K.ILANTHIRAIYAN**

Crl.O.P.(MD).No.18659 of 2016

and

CRL.M.P.(MD).Nos.9307 and 9308 of 2016

WEB COPY

1.Mohammed Dawood

2.Jennath Daha

... Petitioners

Vs.

Kathijathul Sabura Bhanu

... Respondent

Prayer: Criminal Original Petition filed under section 482 of Criminal Procedure Code, to quash the case in C.C.No.163 of 2008 on the file of the learned Judicial Magistrate No.I, Ramanathapuram.

For Petitioners : Mr.R.Murugan

For Respondent : No appearance

O R D E R

The petition has been filed to quash the proceedings in C.C.No.163 of 2008 on the file of the learned Judicial Magistrate No.I, Ramanathapuram as against the petitioners.

2.The learned counsel appearing for the petitioners submitted that the first petitioner died long back. He further submitted that the respondent has divorced the first petitioner in accordance with Mohammedan Law duly pronouncing Talak three times in the Jamath and the first petitioner obtained NOC for second marriage. Thereafter, the first petitioner got married the second petitioner. He further submitted that the respondent suppressed the fact that the pronouncing Talak three times by the first petitioner herein is in accordance with Mohammedan Law. Therefore the impugned complaint cannot be sustained as against the petitioners. He further submitted that the respondent lodged complaint on 14.05.2008 and she was issued with CSR and thereafter she did not pursue with the complaint and did not lodge any complaint before the Social Welfare Officer, Ramanathapuram. Therefore the present complaint is nothing but clear abuse of process of law, hence he prays for quashing the entire proceedings.

3. Though notice served on the respondent and the name printed in the cause list none appeared on behalf of the respondent by person or pleader.

4. There are two accused in this case and the petitioners herein are arrayed as A1 and A2. The learned counsel for the petitioners would submit that the first petitioner herein died long back and as such the entire charge stands abated as against the first petitioner herein. Insofar as the second petitioner is concerned she is the wife of the first petitioner and she is living separately. On perusal of the complaint lodged it is seen



that the first petitioner got married the respondent when she was very much alive. It is also seen that the first petitioner got divorce by pronouncing Talak three times and also obtained no objection certificate from the Jamath and got married the second petitioner herein. Further even according to the respondent herein, the first petitioner got married the second petitioner on 17.06.1977 at Muslim Jamath. Thereafter the first petitioner compelled the respondent herein to vacate the premises and hand over the vacant possession to him, therefore, there is no ingredients to attract the offence under Section 494 of IPC. Insofar as other offences such as 498(A) and 342 of IPC are concerned the entire allegations are lodged as against the first petitioner only. After marriage the first petitioner compelled the respondent to vacate the house and hand over the vacant possession. Infact the earlier a complaint was lodged as against the first petitioner and the same was closed. Further the respondent herein suppressed the fact that already the first petitioner got divorce from the respondent herein by pronouncing three times Talak and also obtained No Objection from the Jamath and got married the second petitioner herein. Therefore the complaint is nothing but a clear abuse of process of law and it cannot be sustained as against the second petitioner.

5. In view of the above discussion as held above, this Court is inclined to quash the proceedings in C.C.No.163 of 2020 on the file of the learned Judicial Magistrate No.I, Ramanthapuram, in respect of the second petitioner.

6. In the result, this Criminal Original Petition is dismissed as abated in respect of the first petitioner and in respect of the second petitioner, this criminal original petitioner is allowed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

vsg/aav

To

The Judicial Magistrate No.I,
Ramanathapuram.

+1 CC to M/s.R. MURUGAN, Advocate (SR-19405[F] dated 08/10/2020)

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and

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