



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.01.2020

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl OP(MD)No.5480 of 2016

and

Crl MP(MD)Nos.2719 & 2720 of 2016

1.Edwin Raj

2.F.C.Bennington James

...Petitioners/Accused Nos.1 & 2

Vs.

Joshpa Prabha

... Respondent / Complainant

Prayer : Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to call for the records and to quash M.C No.190 of 2015 on the file of the Judicial Magistrate / Additional Mahila Court, Trichy.

For Petitioners : Mr.V.Illanchezian

For Respondent : Mr.B.Jameel Arasu

ORDER

The petitioners have filed this Criminal Original Petition for quashing the impugned prosecution in M.C No.190 of 2015 on the file of the Judicial Magistrate / Additional Mahila Court, Trichirappalli. The respondent herein is the complainant.

2.Heard the learned counsel on either side.

3.The case of the respondent is that the first petitioner herein is her husband and that the second petitioner is her father in law. She claims that the first petitioner cheated her and got married to another person and that is why, the respondent herein filed a criminal case against him in Crime No.5 of 2013 before the Fort Police Station, Trichy. Her claim is that the first petitioner herein had induced her to part with 23 ½ sovereigns of gold and a sum of Rs.50,000/-. The petitioner has sought relief under Sections 18, 19, 20 and 22 of the Protection of Women (from Domestic Violence) Act, 2005.

4.Though this Court would clearly refrain from entering into the factual aspects of the matter, as rightly contended by the learned counsel appearing for the petitioners, the criminal prosecution initiated by the respondent herein ended in acquittal vide judgment dated 14.06.2016 in C.C No.5 of 2014 on the file of the Additional Mahila Court, Trichirappalli. The case set out by the respondent herein in Crime No.5 of 2013 is that the first petitioner herein and the complainant were in love with each other for over four years and that in April 2012, the first petitioner married her in a church at Trichy. It was agreed between them



that a formal marriage will be solemnised on 10.10.2012. Even wedding invitation cards were also printed. But without doing so, the first petitioner got married to one Jenci Amalaroopa on 28.09.2012. Therefore, the respondent herein wanted action to be taken against the petitioners herein.

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5.Final report was filed in the said case for the offences under Sections 417 and 420 of IPC. The prosecution charge was that there was intimacy between the first petitioner and the respondent between 2009-12 and that the first petitioner had physical relationship with the respondent and since he did not marry her, the offences under Sections 417 and 420 of IPC were made out. The case was taken on file and as many as 8 witnesses were examined on the side of the prosecution. Exs.P 1 to P 11 were marked. However, the learned Trial Magistrate after a detailed consideration of the evidence on record, acquitted the first petitioner herein of the offences under Sections 417 and 420 IPC. None of the allegations made by the complainant were established. The learned counsel appearing for the petitioners firmly states that the judgment of acquittal has become final. It has not been challenged by the complainant in the manner known to law.

6.When the criminal prosecution initiated by the respondent herein had ended in acquittal, the impugned proceedings clearly become untenable. Therefore, the continuation of the impugned prosecution can only be termed as an abuse of legal process. In this view of the matter, the impugned proceedings stand quashed. The criminal original petition stands allowed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (AD-I)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

To

1.The Judicial Magistrate / Additional Mahila Court, Trichy.

+1 CC to M/s.V.ILLANCHEZIAN, Advocate (SR-205[F] dated 03/01/2020)

Cr1 OP(MD)No.5480 of 2016

and

Cr1 MP(MD)Nos.2719 & 2720 of 2016

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SMA/10/02/2020/2P/3C