



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **20.08.2020**

CORAM:

THE HONOURABLE MR.JUSTICE **R. PONGIAPPAN**

Crl.O.P.[MD]No.16813 of 2018

and

CRL MP (MD) No.7438 of 2018

WEB COPY

1.P.Ganesh

2.Malliga

... Petitioners / A1 & A2

Vs.

1.The State of Tamil Nadu,
Rep.by the Inspector of Police,
All Women Police Station,
Melur,
Madurai District.

... Respondent Complainant

2.G.Thivya Bharathi

... Respondent/Defacto
Complainant

PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records pertaining to the FIR in Crime NO.12 of 2018, on the file of the 1st respondent and quash the same.

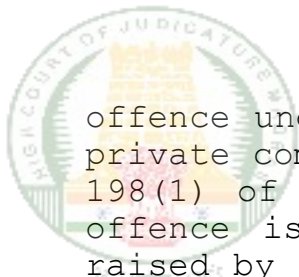
For Petitioners	: Mr.CK.M.Appaji
For Respondent-1	: Mr.APG. OHM Chiarma Prabhu Govt.Advocate
For Respondent-2	: No Appearance

O R D E R

This Criminal Original Petition has been filed to quash the FIR in Crime No.12 of 2018, on the file of the first respondent as illegal.

2. Though the petitioners herein filed this Criminal Revision Petition in the year of 2018, inspite of the repeated adjournments, either by the petitioner nor his counsel is appeared before this Court and completed their arguments. Therefore, this petition is be taken up for consideration today and the following order is passed, on merits.

3. The petitioners herein are arrayed as A1 and A2 in Crime No.12 of 2018, on the file of the first respondent Police. In the said FIR it was alleged that the petitioners committed an offence of Sections 499 and 109 IPC. Now, on going through the grounds raised by the petitioners in the petition it was stated that for the



offence under Section 494 IPC., the aggrieved party can file only a private complaint before the Court having jurisdiction under Section 198(1) of Cr.P.C. In otherwise, registering the FIR for the said offence is barred under Section 198 of Cr.P.C. Further grounds raised by the petitioners is that the offence under Section 109 IPC provides only the punishment to the person, who abates an offence. In this regard, in the FIR, there was an allegation against the mother of the first petitioner, who abates the first petitioner for the second marriage. Accordingly, the FIR registered against the petitioners is an abuse of process of law and therefore, the learned counsel, in the petition, seeks to quash the FIR in Crime No.12 of 2018, on the file of the 1st respondent.

4. Now, on go through the averments set out in the First Information Report, the 2nd respondent herein made allegation against the petitioners that the first petitioner, being the husband of the defacto complaint, after the marriage, repeatedly made harassment in a drunken mood. Further, both the petitioners repeatedly pulled the 2nd respondent to left the matrimonial home. Further, the first respondent is refused to return the Sridhana properties, which was handed over by the parents of the second respondent, at the time of marriage. Therefore, the said averments clearly constitute cognizable offence apart from the offence mentioned in the FIR. Hence, it cannot be said that in the complaint preferred by the 2nd respondent he had referred an allegation only against the second marriage of the first petitioner, as alleged by the petitioners' counsel.

5. Since the investigation in this case is in threshold stage, I am of the considered view that the FIR registered against the petitioners is not an abuse of process of law. The facts and circumstances revealed in the FIR needs a detailed investigation in respect to the offence committed by the first petitioner. Therefore, the grounds raised by the petitioners is not all suffice to quash the FIR, as prayed for.

6. In fine, this Criminal Original Petition is dismissed. Consequently, the connected miscellaneous petition is also dismissed.

Sd/-

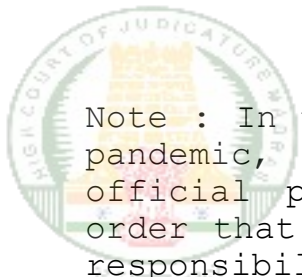
Deputy Registrar(A/C)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

MPK



Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

WEB COPY

To

1. The Inspector of Police,
All Women Police Station,
Melur,
Madurai District.
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

**Crl.O.P. [MD]No.16813 of 2018
20.08.2020**

CS (01.09.2020) 3P 3C