

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.04.2021

C O R A M

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

Crl.R.C.No.243 of 2021

&

Crl.M.P.No.5271 of 2021

1.S.Loganayagi
2.S.Nallasamy
3.Poongothai
4.M.Jayalakshmi
5.Manokaran
6.T.S.Rathinasabapathi
7.S.M.Ramasamy Gounder
8.R.Ramayammal
9.R.Saminathan
10.P.Janagi
11.S.Palanisamy

...Petitioners

Vs.

Gomathi

...Respondent

PRAYER: Criminal Revision Case filed under 397 r/w 401 of Cr.P.C. to set aside the order dated 09.10.2019 in C.M.P.No.3873 of 2019 in C.C.No.128 of 2003, on the file of the learned Judicial Magistrate No.III, Erode.

For Petitioners : Mr.V.P.K.Gowtham

सत्यमेव जयते
O R D E R

By consent, this Criminal Revision Case is taken up for final hearing at the stage of admission itself.

2. This petition has been filed to set aside the order dated 09.10.2019 in C.M.P.No.3873 of 2019 in C.C.No.128 of 2003, on the file of the learned Judicial Magistrate No.III, Erode.

3. The respondent had filed a private complaint against the petitioners herein and other accused under Section 494 r/w 109 of IPC, stating that the first accused viz., Durairaj had married the respondent on 04.06.1987 and due to dispute between them, the said Durairaj filed H.M.O.P.No.34 of 1999, seeking

divorce against the respondent and the said H.M.O.P. was set ex-parte on 26.06.2000. Against which, the respondent filed I.A.No.15 of 2001, seeking to set-aside the ex parte order and the same was allowed on 31.07.2001 and thereafter, the said , Durairaj had not appeared before the Court and the said H.M.O.P.No. was dismissed for default. While so, the said Durairaj married one Padma, the fourth accused on 12.09.2002 and hence, the respondent herein filed a complaint against 30 persons. To discharge from the case, the petitioners herein have filed a discharge petition before the learned Judicial Magistrate No.III, Erode. The learned Judge, after enquiry, dismissed the petition. Challenging the said dismissal order passed by the learned Judicial Magistrate No.III, Erode, the petitioners are before this Court, by way of this revision.

4. Heard the learned counsel for the petitioners and perused the materials available on record.

5. According to the petitioners, they were not connected in the case and not helped the fourth accused, viz., Durairaj, getting in second marriage with one Padma, the fourth accused. The allegation against the petitioners i.e., A7, A9 and A10 is that they garlanded A4, A26 garlanded A1. Further A14 helped the marriage, A16 and A17 gave marriage saree to A4. Moreover, A27 stood by side of A4, A-28 put pottu to A4. A11 is not alleged with any specific allegation.

6. According to the the learned counsel for the petitioners that except were present in the wedding, no allegation has been made against them. No doubt, the ground taken by the petitioners about the same can be decided only after trial and not at this stage. While deciding the petition under Section 245 of Cr.P.C, the Court has to consider the allegations made in the complaint against the petitioners from the final report filed by the respondent-Police under Section 173 of Cr.P.C and not the defence taken by the accused.

7. In view of the above, this Court does not find any perversity in the order passed by the learned Judicial Magistrate No.III, Erode, and there is no merit in the Revision, and the Revision is liable to be dismissed, accordingly, it is dismissed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

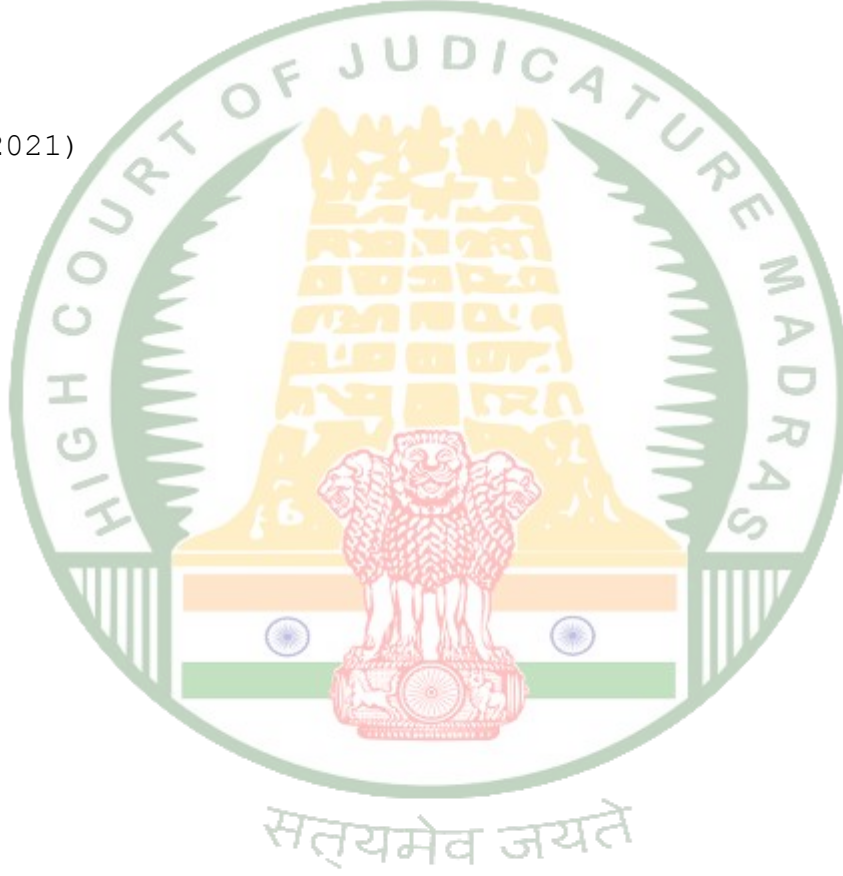
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To

The Judicial Magistrate No.III,
Erode.

CrI.R.C.No.243 of 2021
&
CrI.M.P.No.5271 of 2021

KV (CO)
RN (30/04/2021)



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