

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.02.2021

CORAM :

THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

Crl.O.P.No.3570 of 2018

and

Crl MP Nos.1579 & 1580 of 2018

1. Chinnammal
2. Thangavel
3. Kalaiselvi
4. Deepan
5. Palanisamy
6. Jaya Bakiyam
7. Sarvana Kumar
8. Venkatesan
9. Chinnakunjal
10. Anbu
11. Sudha
12. Kunjupaiyan
13. Sangeetha
14. Velusamy
15. Bharathi
16. Ramasamy

... Petitioners

Vs.

Kavitha

..respondent /
Complainant

Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C. to call for the records pertinent to C.C.No.125 of 2017 on the file of the Judicial Magistrate, No.1 Sangari and quash the same insofar as the petitioners are concerned.

For Petitioner : Mr. P.Tamilavel

For Respondent : Mr.N.Manokaran

ORDER

This petition has been filed to quash the proceedings in C.C.No.317 of 2018, on the file of the Judicial Magistrate, Court No.II, Salem.

2.The respondent has filed a private complaint against 18 named accused persons on the ground that she is the legally wedded wife of A1 and there was a female child that was born out of the wedlock. During the subsistence of the 1st marriage, A1 had contracted a 2nd marriage with A2 and the petitioners herein who are A3 to A18 have abetted the said 2nd marriage. Based on the above complaint, the Court below took cognizance of the complaint for an offence under Section 494 r/w 109 of IPC against the petitioners. Aggrieved by the same, the present petition has been filed before this Court.

3.Heard the learned counsel for the petitioner and Mr.C.Raghavan, learned Government Advocate appearing on behalf of the respondents.

4.The main allegation that has been made against the petitioners is that they attended the marriage between A1 and A2 knowing fully well that the 1st marriage is in subsistence and thereby, they have abetted the illegal marriage between A1 and A2, which is an offence under section 494 of IPC.

5.The entire complaint has been filed based on what was informed to the respondent by one Velu and Rajammal. The petitioners are the father, mother and other relatives of A1. Even though, this marriage is said to have taken place in the year 2011, the private complaint came to be given in the year 2017. At this length of time, even assuming that there was a illegal 2nd marriage contracted between A1 and A2, it will be too far fetched to come to a conclusion that it was abetted by all the petitioners just because they are said to have attended the marriage.

6.If all those who attend the alleged 2nd marriage ought to be made as accused persons, attending a marriage function will become a risky affair and it is also possible that a Purohit can also be made as an accused for having conducted the marriage. The offence of abetment should involve a positive act of incitement or aiding the commission of an offence. Those ingredients are not present as against the petitioners herein and making the petitioners undergo the criminal trial before the Court below will amount to an abuse of process of Court.

7.In the result, the proceedings in C.C.No.125 of 2017 on the file of the Judicial Magistrate, No.1 Sangari is quashed insofar as the petitioner is concerned. This Criminal Original petition is allowed accordingly. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

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Sub Assistant Registrar

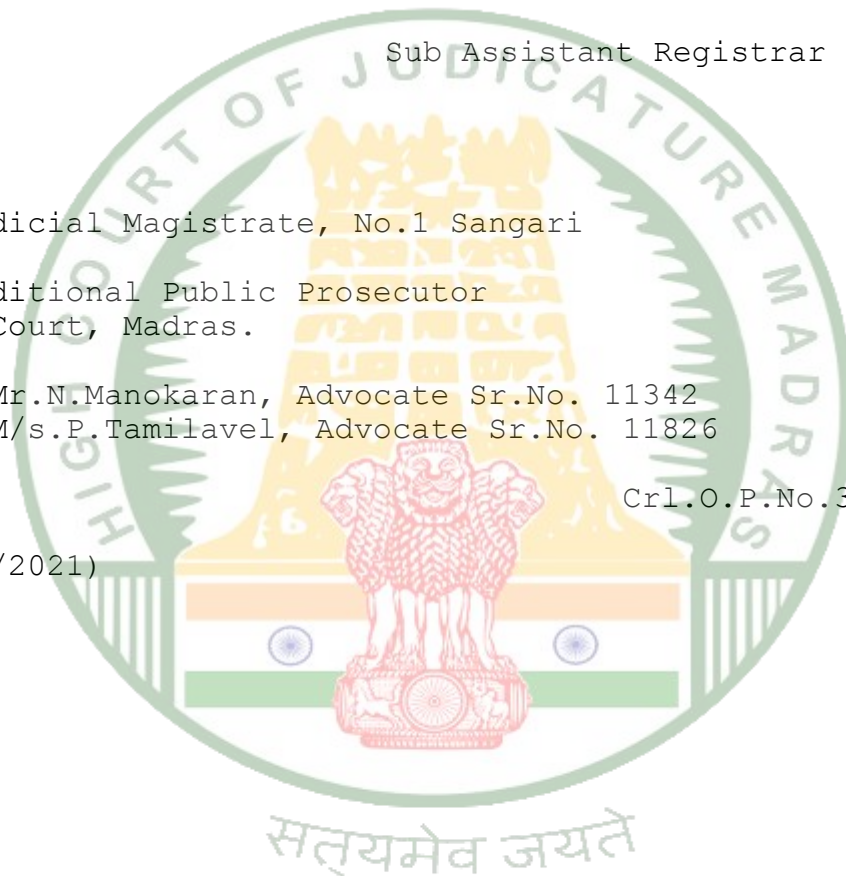
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To

1. The Judicial Magistrate, No.1 Sangari
2. The Additional Public Prosecutor
High Court, Madras.

+1 cc to Mr.N.Manokaran, Advocate Sr.No. 11342
+1 cc to M/s.P.Tamilavel, Advocate Sr.No. 11826

Cr1.O.P.No.3570 of 2018

SKY(CO)
RMP(24/03/2021)



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