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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.08.2021

CORAM

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.10106 of 2021

A.C.Aswini

... Petitioner

Vs.

1.The Inspector General of Registrar,
Santhome High Road, Chennai.

2.The Deputy Registrar,
O/o. District Registrar,
Paikinar Village,
Cheiyar Thiruvannamalai District.

3.The Sub Registrar (Marriage Registrar),
O/o. Sub Registrar,
No.7, Kottai South Street,
Arani.

4.Srinivasan

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a writ of Mandamus to direct the 1st respondent herein to cancel the marriage certificate dt. 31.10.2018 registered at S.R.O. Arani in Serial No.168 of 2018 after prima facie enquiry in accordance with law.

For Petitioner : Mr.M.E.V.Thulasi

For Respondents : Mr.Yogesh Kannadasan for R1 to R3
Government Advocate

Mr.A.Swaminathan for R4

ORDER

The petitioner has filed a writ of Mandamus to direct the first respondent to cancel the marriage certificate dated 31.10.2018 registered before the S.R.O. Arani in Serial No.168 of 2018 after conducting an enquiry in accordance with law.

2.The case of the petitioner is that she had completed Master degree in Computer Science and her father passed away in the year 2007 due to cardiac attack and since then, she is looking after by her uncle Mr.Ravi Shankar and aunt Mrs.Sathya



Bama. According to the petitioner, the fourth respondent herein and his family members approached her uncle and aunt and proposed to marry her alleging that the fourth respondent is working as an Engineer in Singapore.

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3. According to the petitioner, betrothal was conducted between her and the fourth respondent herein in a grand manner on 27.10.2018 and marriage date was fixed on 10.02.2019 and subsequently, the fourth respondent parents had insisted her uncle to register the marriage, before the marriage to be solemnized as per Hindu rites and customs to enable the fourth respondent to proceed for Visa processing. According to the petitioner, her family members also accepted the same and registered the marriage on 31.10.2018 registered at S.R.O. Arani in Serial No.168 of 2018. According to the petitioner, on 13.11.2018, the fourth respondent has informed her uncle through his family members that he is not interested in marrying her for the reasons best known to him.

4. According to the petitioner, in spite of several efforts taken by her family members, the fourth respondent was very stubborn that he is not interested in marrying her. According to the petitioner, she agreed to enter into an unregistered agreement dated 13.02.2019 with the fourth respondent mutually agreeing to cancel the said marriage certificate dated 31.10.2018 by following the procedure as mandated in law.

5. That being the case, if any one files a divorce petition for cancelling the wedding, the second party will also cooperate with the same for getting a divorce.

6. According to the petitioner, she had sent a representation to the respondents 1 to 3, to cancel the illegal marriage certificate dated 31.10.2018 in serial No.168 of 2018 registered at S.R.O. Arani for the purpose of Visa processing to Singapore. But, till date, there is no response from them. The petitioner submits that she is left with no other efficacy, the petitioner before this Court to direct the first respondent herein to cancel the marriage certificate dated 31.10.2018 registered at S.R.O. Arani in Serial No.168 of 2018 after conducting an enquiry in accordance with law. According to the petitioner, though she is a spinster, because of the registered marriage certificate dated 31.10.2018 she is being considered as married women in the eyes of law and the in the society as well.

7. In support of his contentions, the petitioner submits that this Court has got the power to cancel the said wedding and relied upon the following judgments:

(a) A judgment of a learned Single Judge of the Madras High Court dated 05.01.2016 in the case of S.Jeyanthi vs. The



Inspector General of Registration and others in W.P.No.34508 of 2015, the relevant portions of the aforesaid decision is extracted hereunder:

the petitioner is entitled for the relief sought for as the 4th respondent has not come before this Court. It is the specific case of the petitioner that she did not go to the Registrar Office and got the alleged marriage registered. Even the 4th respondent is conspicuous by his absence. The petitioner has averred that a marriage certificate was issued by an Advocate Sivakumar. I have never met the Advocate nor visited his office. These certificates relied upon by the petitioner have been obtained by fraud and collusion and I have never married the petitioner or consented to the same.

This Court had quashed the registration made by the third respondent vide Registration No.2957 of 2014 dated 30.06.2014 and consequently, directed the authority to delete and remove the same from the Marriage Records only on the ground that the petitioner was cheated and fraud committed on her.

(b) A judgment of a learned Single Judge of the Madras High Court dated 18.07.2016 in the case of D.Chandraleka vs. The District Registrar and others in W.P.No.19815 of 2016, the relevant portions of the aforesaid decision is extracted hereunder:

Marriage registration certificates to show that the marriage took place between two willing parties out of their own violation and later on, the aggrieved party approaches this Court by filing these kind of writ petitions, stating that the marriage was solemnised and registered against the wishes. Especially for the reason that the future of the girls like the petitioner and since the the girl/petitioner is aged about 19 years and hailing from a village and believing the representation of the 3rd respondent, she took the drink which was laced with some tranquilizers and became unconscious and under threat and coercion, the marriage came to be registered though there was no actually a marriage took place with the required ceremonies and the 3rd respondent has also filed a counter affidavit, admitting the said fact.

This Court had cancelled the proceedings of the second respondent in Sl.No.599/2016 dated 04.04.2016 and directed the second respondent to delete, cancel and remove Sl.No.599/2016 from the Marriage Records maintained in his office.

(c) A judgment of a learned Single Judge of the Madras High Court dated 20.03.2014 in the case of C.Sivagama Sundari vs. The Inspector General of Registration and others in W.P.No.15459 of 2012, the relevant portions of the aforesaid decision is extracted hereunder:



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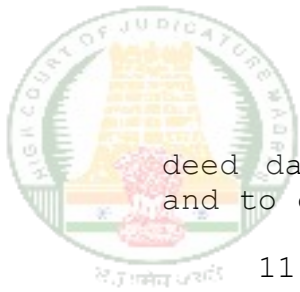
There is no certificate of the person viz., the priest who conducted the marriage and also there is no proof that the alleged marriage took place within the jurisdiction of Marakkanam Sub-Registrar's office and the fifth respondent therein has not signed, the entire transaction is an unauthorized one. Further, Form II which is an application for Memorandum for Registration of Marriage was not at all submitted and so are the mandatory documents that are to be enclosed to Form II and even in form I, the signature of the then Registrar (5th respondent) is not available.

This Court had set aside the proceedings of the third respondent dated 24.02.2012 in proceedings No.45/12 and directed the third respondent to place the entire papers/documents/records before the District Registrar (Admin), Tinidivanam, within a week from the date of receipt of a copy of this order and the District Registrar (Admin) Tindivanam is directed to take up the complaint of the petitioner and conduct an enquiry as contemplated in the circular No.67 dated 03.11.2011 (C.No.52338/C1/2011) issued by the Inspector General of Registration within two months thereafter.

8.The fourth respondent submits that he is a native of Arani and residing with his parents and for his livelihood and earning, he went to Singapore and was working there. According to the fourth respondent, during the period his parents saw an alliance in India and through his relatives and got horoscope and profile of the petitioner and found that both himself and the petitioner's horoscopes matched well and accordingly, betrothal was arranged on 28.10.2018 at Madhuram Hall, Arani and the marriage was fixed on 10.02.2019.

9.According to the fourth respondent, as he is working in abroad, the family members wanted him to take the petitioner along with him immediately after the marriage. According to the petitioner, due to wrong advice and inadvertently they had registered the marriage on 31.10.2018 at SRO, Arani in Serial No.168 of 2018 based on betrothal arrangements. According to the fourth respondent, he found there was a difference in behaviour towards him by the petitioner and she was not fully interested in marrying him and consequently, there was a difference of opinion between the family members despite several attempts being made, the issues could not be reconciled and finally both family members decided to call-off the wedding.

10.The fourth respondent further submits that he and the petitioner executed a cancellation of marriage deed dated 13.12.2019 in the presence of both family members and agreed to cancel the registration of marriage. According to the fourth respondent, there was no solemnization of marriage between him and the petitioner and the marriage was registered mistakenly and inadvertently. The fourth respondent submits that as already they had executed a cancellation of marriage



deed dated 13.02.2019 declaring the cancellation of marriage and to cancel the registration of marriage.

11. Heard the learned counsel for the petitioner, learned Government Advocate for the respondents 1 to 3 and the learned counsel for the fourth respondent and perused the materials available on record.

12. On perusal of the records, it is seen that the marriage was solemnised on 28.10.2018 at Madhuram Hall, Arani Tiruvannamalai registered on 31.10.2018. Both the parties have signed the register stating that the marriage has been already got over on 28.10.2018 and as per the documents, they are legally husband and wife. The witnesses were also signed the same would show that the entire process has been followed by the petitioner and the fourth respondent. The averment made by the petitioner that she has been cheated and the marriage has been stopped, as no marriage has been performed cannot be accepted from the fact that on the registration certificate, it has been stated that the marriage has already solemnised on 28.10.2018 at Madhuram Hall alleged to have been the date of marriage that as the betrothal ceremony. It is submitted by the petitioner that the fourth respondent is refusing to come forward for marry her again will not stand in the eye of law. As per documents, both becomes the husband and wife. There is a document filed before this Court in Rs.20/- stamp paper that both are signed in the same stating that they also reiterate that clause 5 as the fourth respondent is inclined to take the petitioner to Singapore for processing visa and passport application. The petitioner's family accepted to register the marriage and both the family also given their consent for the same and only on 31.10.2018 the marriage has been registered. Thereafter, there was some dispute arose between the petitioner and the fourth respondent families and hence the marriage was stopped.

13. On going through all the citations referred to supra, wherein those parties have been suffered by registration of marriage without their consent or fraud or any other mode of compulsion. But in the present case, where the petitioner as well as the fourth respondent and their family members willingly with consent went for registering the marriage only for the purpose of processing Singapore Visa and passport application.

14. In view of the above, this Court is of the view that there is no fraud or coercion made against any of the persons for registering such marriage and no fraud took place and this Court is not inclined to cancel the same. However, liberty is granted to the petitioner to approach the concerned Court for filing an appropriate application as desired by the petitioner.



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15. With the above observation, the writ petition is dismissed. No costs.

Sd/-
Assistant Registrar (CS-IX)

//True copy//

Sub Assistant Registrar

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To

1. The Inspector General of Registrar,
Santhome High Road, Chennai.
2. The Deputy Registrar,
O/o. District Registrar,
Paikinar Village,
Cheiyar Thiruvannamalai District.
3. The Sub Registrar (Marriage Registrar),
O/o. Sub Registrar,
No.7, Kottai South Street,
Arani.

+1cc to Government Pleader SR.No.44242

W.P.No.10106 of 2021

PCH(CO)
GMY(18/10/2021)