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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.12.2021

CORAM:

THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

CRL.O.P.NO.23649 OF 2019

1. K.Mani
2. M.Selvi
3. Jeya
4. C.Palaniyammal
5. Mani
6. M.Amsa
7. M.Subramani
8. M.Arul

... Petitioners

.Vs.

M.Gokila

... Respondent

PRAYER:-

Criminal Original Petition is filed under Section 482 of Cr.P.C., praying to call for the records and quash the proceedings in C.C.No.146 of 2017, on the file of the learned Judicial Magistrate Court, Rasipuram and quash the same.

For Petitioners : Mr.P.Muthamizhselvakumar

For Respondent : Mr.S.Vinoth Kumar
For Mr.G.Anu Murugan

ORDER

This Criminal Original Petition has been filed seeking to call for the records and quash the proceedings in C.C.No.146 of 2017, on the file of the learned Judicial Magistrate Court, Rasipuram and quash the same.

2. The first petitioner is the mother of A1/accused; the second petitioner is the wife of A1; the third petitioner is the sister of A1; the fourth petitioner is the grandmother of A1 (died); the fifth petitioner is the father of A2; the sixth petitioner is the mother of A2; the 7th and 8th petitioners are



the brothers of A2. All have approached this Court to quash the proceedings contending that they are close relatives of A1 and A2.

3. The respondent is the legally wedded wife of Muthukumar/A1 and their marriage has been solemnized in front of the close relatives on 25.02.2010. Thereafter, the respondent/complainant started matrimonial life at the house of A1 within three months from the date of the marriage due to difference of opinion arouse between the respondent/complainant and A1. She forcibly sent out from the matrimonial. She filed M.C.No.13 of 2013 before Judicial Magistrate, Rasipuram for maintenance since her all efforts for reunion was failed. While so, on 13.10.2014, the 1st accused married one Priya which was arranged by all his family members/petitioners herein. Therefore, the respondent has filed a private complaint against these petitioners based upon that the case was taken on file in C.C.No.146 of 2017 for the offences under Sections 109, 494 and 143 of IPC and the present petition has been filed only to drag on the proceedings.

4. In the judgment in S.Saraswathi and others Vs. Sumathi, in Crl.O.P.No.2786 of 2017 in Crl.M.P.Nos.1972 and 1973 of 2017, this Court has held as follows:

16.Amidst the naration of facts, the detailed allegations made by the respondent/complainant in her complaint against the accused persons, with regard to the conduct of second marriage are as follows:

16.1. The respondent/complainant came to know through her father's friend N.Sivakumar that her husband (A1) has married S.Rajeshwari (A2) at Rathina Vinayagar Temple at R.S.Puram on 21.05.2000, even when the marriage between her and her husband is still subsisting;

16.2. The said N.Sivakumar found the husband of the complainant (A1) in Muhurta Dhoti and S.Rajeshwari (A2) in Muhurtha Saree. Further, he noticed that A3 to A7 were also dressed up in new clothes;

16.3. The Thali was taken by P.Kanagaraj (A6) and was handed over to S.Kanagasabathy (A1), who tied the Thali with three knots on her neck of S.Rajeshwari (A2) with the assistance of K.Chandra (A7);



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16.4. Further, her Brother-in-law S.Vinayagamorthy (A4) handed over two garlands to A1 and A2, who exchanged the garlands for each other;

16.5. Further, the new couple had fallen at the feet of her mother-in-law Saraswathi (A3) and K.Chnadra (A7), who blessed them;

16.6. S.Vinayagamorthy (A4) and Sakthiya Priya (A5) were also wishing them with a small bouquet;

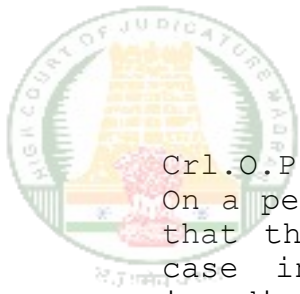
16.7. The ceremonies were conducted as per Hindu Rites and Customs;

16.8. When the same was questioned by the said N.Sivakumar as to how they can conduct the second marriage when the first marriage with the complainant is subsisting, all the seven accused criminally intimidated him and warned him not to interfere with the matrimonial matter, hence, he kept quiet and came out.

17. The respondent/complainant, in her statement before the police, has stated as follows:

The respondent/complainant's father's friend visited the temple at R.S.Puram. She did not remember the date. At that time, her husband (A1) and S.Rajeshwari (A2) were seen in Muhurtha Dress and the same was informed to her and on that day, his uncle P.Kanagaraj (A6) had taken out the Thali and handed over the same to A1, who tied the Thali around the neck of A2. At the time, the petitioners herein (A3 to A5), his uncle P.Kanagaraj (A6) and K.Chandra (A7) were also present at the place of occurrence. When enquired, A1 replied by asking him to mind his own business (உன் வேலையை பார்த்துக் கொண்டு போ). On further enquiry, it was found that they were having two children, namely Akshaya and Hariharan, and since they did not get any evidence, relating to the second marriage, she has not given any complaint and only when she got some evidence, she filed the complainthe narra.

5. In support of his contention, the learned counsel for the petitioners relied upon the judgment in S.Saraswathi and others Vs. Sumathi in the High Court of Madras in



Crl.O.P.No.2786 of 2017 in Crl.M.P.Nos.1972 and 1973 of 2017. On a perusal of the facts in the referred case, this Court finds that the first wife gave a complaint after ten years. However, case in hand, on coming to know of the alleged marriage, immediately the first wife/defacto complainant approached the police and lodged a complaint within one year. For all these years, the respondent is waiting for justice. But due to the conduct of these petitioners, she is suffering till date. So, I do not find any merit in this petition and the judgment relied upon by the learned counsel for the petitioners does not squarely applicable to the facts of the present case.

6. Accordingly, this Criminal Original Petition is dismissed and the trial Court is directed to dispose of the matter within a period of six months from the date of receipt of a copy of this order. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

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To

1. The Judicial Magistrate Court,
Rasipuram.
2. The Public Prosecutor,
High Court, Madras.

CRL.O.P.NO.23649 OF 2019

SPD(CO)
PBS/16/02/2022