



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.11.2021

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

CRL.O.P.NO.8661 OF 2017

AND

CRL.M.P.NOS.6177 & 6244 OF 2017

1. D.Yasar Arafath
2. Shamshad Begum
3. Dhasthagir
4. M.M.Khan
5. Muhammed Ibrahim Khan
6. Rashmi Sultana
7. N.Shabnaa
8. Norul Bhasha
9. Shakila Begum

...Petitioners

Vs

G.K.Ayisha

...Respondent

PRAYER: Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the records relating to C.C.No.116 of 2016 on the file of the learned Judicial Magistrate Court No.I, Gobichettipalayam and quash the same insofar as it relates to the petitioners are concerned.

For petitioners : Mr.K.Govi Ganesan

For Respondent : Mr.S.Ramachandran

O R D E R

This petition has been filed to quash the charge sheet in C.C.No.116 of 2016 on the file of the learned Judicial Magistrate No.I, Gobichettipalayam for the offences under Sections 494, 498 (A) r/w Section 109 of I.P.C.



2. This petition has been filed mainly on the ground that under Mohammedan Law, the husband can marry four wives. Therefore, the offence under Section 494 cannot be made out. Similarly, the 1st petitioner has already issued "Talak" under Registered Post with Acknowledge Due. Therefore, he cannot be prosecuted under Section 498-A of I.P.C.

3. At the outset, I am unable to countenance the submissions of the learned counsel for the petitioners. Whether divorce has been obtained as per the religion is a matter of evidence. Allegation of cruelty is also made against the petitioners. All these matters have to be tested only at the time of trial and this Court cannot go into the matters at this stage.

4. Accordingly, this Criminal Original Petition is dismissed. The petitioners are at liberty to raise all their legal submissions before the Trial Court. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS-VII)

//True Copy//

Sub Assistant Registrar

vrc / kbs

To

The Judicial Magistrate No.I,
Gobichettipalayam.

+1cc to M/s.K.Govi Ganesan, Advocate, S.R.No.60962

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KSM(CO)
RLP(08/12/2021)