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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 22.12.2021

CORAM

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

Crl.O.P.No.25079 of 2017

and

Crl.M.P.Nos.14442 & 6925 of 2017

1. Emmanuvel Vasantharaj
S/o.Late Samuvel Manohar Raj
 2. Lalitha Laxmi Samuvel
W/o.Late Samuvel Manohar Raj
- ...Petitioners/Accused
- Versus
1. The State of Tamil Nadu,
Represented by the Inspector of Police,
W-1, All Women Police Station,
Thousand Lights,
Chennai - 600 006.
 2. S. Anisha
- ...1st Respondent/Complainant
...2nd Respondent/ De facto
Complainant

PRAYER:Criminal Original Petition filed under Section 482 Cr.P.C to quash the charge sheet in C.C.No.215 of 2017 pending on the file of the learned Additional Mahila Court, Lilly Pond, Chennai-600 003.

For Petitioner : Mr.M.K.Kabir, Senior Counsel
for Mr.C.Rekha Kumari

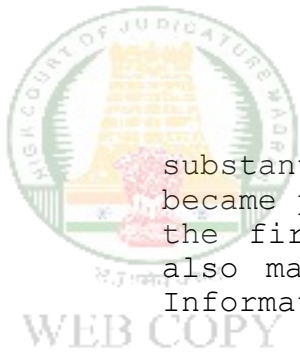
For Respondents: Mr.Kishore Kumar
Government Advocate(Crl. side) for R1

: Mr.K.Thenrajan for R2

O R D E R

This Criminal Original Petition has been filed to quash the proceedings in C.C.No.215 of 2017 pending on the file of the learned Additional Mahila Court, Chennai.

2. The case of the prosecution is that the first accused developed contact with the de facto complainant when the earlier marriage of the de facto complainant with her husband was subsisting and marriage between the first accused and the de facto complainant was conducted at home in front of the family members and the de facto complainant parted with jewels and paid



substantial amount. During her relationship with A1, she also became pregnant. It is the case of the de facto complainant that the first accused caused miscarriage with the help of A2 and also made a threat resulting in the registration of the First Information Report.

3. The learned Senior Counsel appearing for the petitioners contended that the entire case is a false case and there cannot be any marriage when the divorce proceedings between the husband and wife are pending at the relevant point of time. It is his further contention that the alleged miscarriage is also highly improbable and cannot be believed and hence, seeks to quash the entire proceedings.

4. On a perusal of the entire materials, this court is of the view that the prosecution has unearthed certain materials, particularly evidence has been collected from the doctor, who is said to have conducted the miscarriage. The prima facie materials available against the accused indicate that the case has to see its logical end in the trial Court. Though the marriage alleged by the de facto complainant may not be legally valid, the fact remains that the allegations are pressed into the service as if they were living as husband and wife and A2 helped A1 and both of them have cheated the amount runs to several lakhs. When there are prima facie materials to frame the charges, I am not inclined to quash the final report at this stage. All the materials placed before this Court at the best could be used by the petitioners before the trial Court to prove the conduct of the de facto complainant. Therefore, at this stage this Court cannot assume the role of the trial Court to appreciate the evidence and give a finding that the entire proceedings are false. An appreciation of evidence is in the domain of the trial Court.

5. In such view of the matter, this Criminal Original Petition is dismissed. It is open to the petitioners to raise all their legal defences before the trial Court. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS-II)

//True Copy//

Sub Assistant Registrar

gpa/gba



To

1. The Judge,
The Additional Mahila Court,
Lilly Pond, Chennai-600 003.
2. The Inspector of Police,
W-1, All Women Police Station,
Thousand Lights,
Chennai - 600 006.
3. The Public Prosecutor
Madras High Court
Chennai - 104

+1cc to Mr.Thenrajan, Advocate, S.R.No.69662

+1cc to M/s.C.Rekha Kumari, Advocate, S.R.No.69240

Crl.O.P.No.25079 of 2017
and
Crl.M.P.Nos.14442 & 6925 of 2017

MG (CO)
RGA (06/01/2022)