



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.12.2021
CORAM

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

CrI. O.P. No.25393 of 2017
and
CrI.M.P.Nos.14623 and 14624 of 2017
and
CrI.M.P.No.6748 of 2018

Jayalakshmi

...Petitioner

Vs.

Rajeswari

...Respondent

PRAYER: Criminal Original Petition filed under Section 482 of Criminal Procedure Code, praying to call for the records in C.C.No.119/2007 on the file of Judicial Magistrate I, Vridhachalam, Cuddalore District and quash the same.

For Petitioner : Mr.R.Rajarajan

For Respondent : Mr.Swami Subramanian

ORDER

This Criminal Original Petition has been filed to call for the records in C.C.No.119/2007 on the file of Judicial Magistrate I, Vridhachalam, Cuddalore District and quash the same.

2. The private complaint has been initiated as against eight accused for allegedly solemnizing the second marriage of A1 while the marriage between the defacto complainant and A1 was in subsistence. However, it is the contention of the learned counsel for the petitioner that the learned Magistrate discharged all other accused and issued summons only to A1 and A2.

3. Learned counsel for the petitioner submitted that at the most A1 alone can be proceeded and Section 494 of I.P.C cannot be attracted against the second accused, and it is not case of the defacto complainant that she was living with her husband at the time of second marriage. Therefore, the learned counsel submitted that the offence cannot be made out.



4. Learned counsel for the respondent would submit that all the witnesses had already been examined before the Trial Court and at this stage, charge sheet cannot be quashed.

5. Learned Judicial Magistrate has taken cognizance of the complaint as against A1 and A2 for the offence under Section 494 IPC. As far as the offence under Section 494 IPC is concerned, to attract the said offence, the offence should have been committed by either side when the first spouse is living with him/her. It is not the case of the de facto complainant that A2 was living with her husband. In such view of the matter, this Court is of the view that offence under Section 494 of IPC would not be attracted against the present petitioner. Therefore, the charge under Section 494 of IPC as against the present petitioner (A2) is alone quashed.

6. As the charge under Section 494 of IPC is ruled out, the learned Trial Judge shall decide the matter with the available materials in respect of any other charge, if made out, and dispose of the main case itself as expeditiously as possible, but not later than three(3) months from the date of receipt of a copy of this order.

7. Accordingly, this Criminal Original Petition is disposed of. Consequently connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS-II)

//True Copy//

Sub Assistant Registrar

msv

To

1. The Judicial Magistrate No.I,
Vridhachalam, Cuddalore District.
2. Do Thro chief Judicial Magistrate,
Cuddalore.

+1cc to Mr.R.Rajaraman, Advocate, S.R.No.66662

+1cc to Mr.Swami Subramanian, Advocate, S.R.No.66650

Crl. O.P. No.25393 of 2017
and Crl.M.P.Nos.14623 and 14624 of 2017
and Crl.M.P.No.6748 of 2018

GSM(CO)
RGA(12/01/2022)