



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 03.02.2021

DELIVERED ON : 18.02.2021

WEB COPY

CORAM :

THE HONOURABLE MRS. JUSTICE R. HEMALATHA

**Crl.OP.(MD)Nos.520 & 7462 of 2020 &
Crl.MP(MD)Nos.175, 177, 3599 & 3600 of 2020**

Rabiyattu

... Petitioner/A3
in Crl.OP(MD)No.520 of 2020

1.V.Vibulananthan @ Ranjan
2.Manonmani

... Petitioners/Accused Nos.1 & 2
in Crl.OP(MD)No.7462 of 2020

vs.

1.The State Represented by
The Inspector of Police,
Thiruvaiyaru Police Station,
Thanjavur District.
(Crime No.169 of 2007)

2.Manjula ... Respondents in both petitions

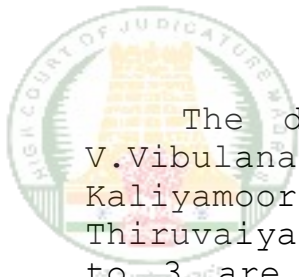
COMMON PRAYER: Criminal Original Petitions filed under Section 482 of the Code of Criminal Procedure to call for the records in CC.No.71 of 2015 on the file of the Judicial Magistrate, Thiruvaiyaru and quash the proceedings against the petitioners.

For Petitioners : Mr.M.Ramu
(in both petitions)
For R1 : Mr.A.Robinson,
(in both petitions) Government Advocate (Criminal Side)

C O M M O N O R D E R

The petitioners in Crl.OP(MD)No.7462 of 2020 and Crl.OP(MD)No.520 of 2020 are the accused 1 to 3 in CC.No.71 of 2015 on the file of the Judicial Magistrate, Thiruvaiyaru for the offences punishable under Sections 420 and 493 of the Indian Penal Code.

<https://hcservices.courts.gov.in/hcservices/> of the prosecution in brief is as follows:



The defacto complainant Manjula was given in marriage to V.Vibulanathan @ Ranjan (A1) on 10.04.2020 by her parents Kaliyamoorthy and Selvi at Shanmugapriya Kalyana Mandapam, Thiruvaiyaru. According to the defacto complainant, the accused 1 to 3 are residing in London and that the first accused after living with her for 20 days in a rented house at Thiruvaiyaru went back to London promising her that he would take her to London after getting necessary Visa. Subsequently, she did not get any information from the first accused and when she contacted Manonmani (A2), Rabiyyattu (A3) and Affideen (A4), they did not give her proper reply. Her further contention is that her marriage with the first accused was not registered and that till date she did not get any information from accused 1 to 3. According to her she has been cheated by all the accused.

3. The Inspector of Police, Thiruvaiyaru Police Station, Thanjavur District after receiving the complaint from the defacto complainant registered First Information in Crime No.169 of 2007 for the offences punishable under Section 420 of the Indian Penal Code and after concluding investigation laid a charge sheet against the accused 1 to 4 in CC.No.71 of 2015 on the file of the Judicial Magistrate, Thiruvaiyaru. Since the police did not produce the accused 1 to 3 before the Judicial Magistrate, Thiruvaiyaru, the learned Judicial Magistrate split up the case as against the accused 1 to 3 in CC.No.71 of 2015 and proceeded with the trial against the fourth accused, Affideen, S/o.Abdul Rahman Sahib in CC.No.36 of 2009. After concluding the trial, the learned Judicial Magistrate, acquitted the fourth accused on the ground that the defacto complainant did not adduce any evidence as to how the A4 cheated her and that A4 is the person who introduced A1 to A3 to her parents.

4. Now the present petitions are filed by A1 to A3 seeking to quash CC.No.71 of 2015 on the file of the Judicial Magistrate, Thiruvaiyaru.

5. Mr.M.Ramu, learned counsel appearing for the petitioners contended that the learned Judicial Magistrate, Thiruvaiyaru after examining all the witness has come to a definite conclusion that the defacto complainant did not adduce sufficient evidence to hold that A4 is guilty of offences punishable under Sections 420 and 493 of the Indian Penal Code and that the accused 1 to 3 did not commit any offence under Sections 420 and 493 of the Indian Penal Code. He also drew the attention of this Court to the Section 493 of the Indian Penal Code, which reads as under:

"Cohabitation caused by a man
deceitfully inducing a belief of lawful
marriage- Every man who by deceit



WEB COPY

causes any woman who is not lawfully married to him to believe that she is lawfully married to him and to cohabit or have sexual intercourse with him in that belief, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine."

His contention is that the plain reading of the Section would go to show that in order to constitute an offence under this Section, it has to be demonstrated that a man has deceitfully caused any woman, who is not lawfully married to him, to believe that she is lawfully married wife and thereby cohabit with him. His further contention is that the accused must induce a woman, not lawfully married to him, to believe that she is married to him and as a result of such misrepresentation, woman should believe that she was lawfully married to the man and thus there should be cohabitation or sexual intercourse. He also drew the attention of this Court to Section 420 of the Indian Penal Code and contended that no offence is made out against the accused even under Section 420 of the Indian Penal Code.

6. At the outset, it may be observed that the learned Judicial Magistrate had acquitted the accused 4 since the defacto complainant did not adduce sufficient evidence to show as to how accused 4 cheated her as alleged by her. Therefore, it cannot be held that since A4 is acquitted, A1 to A3 should also be acquitted for the simple reason that A1 to A3 stand on a different footing. In the decision in Ram Chandra Bhagat vs. State of Jharkhand reported in (2013) 1 SCC 562, it has been held that,

"6.....If a woman is induced to change her status from that of an unmarried to that of a married woman with all the duties and obligations pertaining to the changed relationship and that result is accomplished by deceit, such woman within the law can be said to have been deceived and the offence under Section 493 IPC is brought home. Inducement by a person deceitfully to a woman to change her status from unmarried woman to a lawfully married woman and on that inducement making her cohabit with him in the belief that she is lawfully married to him is what constitutes an offence under Section 493. The victim woman has been induced to do that which,



WEB COPY

(MD)No.520 of 2020

but for the false practice, she would not have done and has been led to change her social and domestic status. The ingredients of Section 493 can be said to be fully satisfied when it is proved - (a) deceit causing a false belief of existence of a lawful marriage and (b) cohabitation or sexual intercourse with the person causing such belief. It is not necessary to establish the factum of marriage according to personal law but the proof of inducement by a man deceitfully to a woman to change her status from that of an unmarried to that of a lawful married woman and then make that woman cohabit with him establishes an offence under Section 493 IPC."

7. In the instant case, the charge against the present petitioners is that by their deceitful inducement, changed the defacto complainant's status from unmarried person to a married one, thereby made her cohabit with the Accused No.1. It is further alleged that the marriage between the second respondent/defacto complainant and Accused No.1 was not registered and the accused 1 to 3 had gone to London without giving further intimation to the defacto complainant. The ingredients of Section 493 of the Indian Penal Code is fully satisfied as per the report of the police. The Judgment passed by the learned Judicial Magistrate, Thiruvaiyaru is only with regard to the involvement of fourth accused alone. Since the prosecution could not establish that fourth accused is the person who introduced A1 to A3 to the defacto complainant's family, he was acquitted. As already observed, the present petitioners stand on a different footing and they have not shown any acceptable ground to quash the final report in CC.No.71 of 2015 on the file of the Judicial Magistrate, Thiruvaiyaru.

8. In the result, this Criminal Original Petitions are dismissed. Consequently, the connected Miscellaneous Petitions are closed.

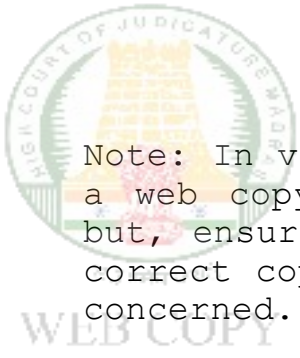
Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)



Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1. The Inspector of Police,
Thiruvaiyaru Police Station,
Thanjavur District.

2. The Judicial Magistrate,
Thiruvaiyaru.

+1 CC to Mr.M.RAMU, Advocate (SR-5960[F] dated 18/02/2021)

Order in
Crl.OP.(MD)Nos.520 & 7462 of 2020 &
Crl.MP(MD)Nos.175, 177, 3599 & 3600 of 2020
18.02.2021

mbi

AE/ (01/03/2021) 5P / 4C