



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **17.11.2021**

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl O.P.(MD)No.5865 of 2021

and

Crl M.P.(MD)Nos.3379 & 3380 of 2021

1.Sunil Kumar

2.Manikandan

... Petitioners/ Accused 2 & 3
Vs.

1.State represented by

The Inspector of Police,
Marthandam Police Station,
Kanyakumari District.
(Crime No. 393 of 2018)

... 1st Respondent/ Complainant

2.Thirunama Selvan

... 2nd Respondent/ Defacto Complainant

Prayer : This Criminal Original Petition is filed under Section 482 of Cr.P.C., to call for the records in C.C.No.284 of 2020 on the file of the Judicial Magistrate No.1, Kuzhithurai and to quash the same as against the petitioners.

For Petitioners : Mr.S.Sivakumar

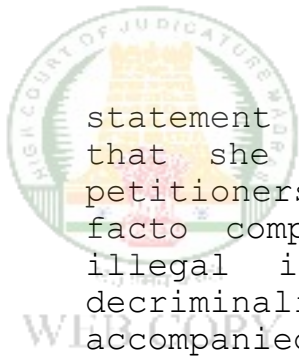
For Respondents : Mr.T.Senthil Kumar
Additional Public Prosecutor for R1
No Appearance for R2

ORDER

Heard the learned Counsel for the petitioners and the learned Additional Public Prosecutor for the respondent.

2. This Criminal Original Petition has been filed for quashing the impugned proceedings in C.C.No.284 of 2020 on the file of Judicial Magistrate No.1, Kuzhithurai.

3. The petitioners are figuring as A2 and A3 in the said case. The de-facto complainant is the second respondent. Though he has been served and his name has been printed in the cause list he has not chosen to enter appearance. The Court below had taken cognizance of the offence under Section 363 of IPC. A reading of the



statement of the wife of the de-facto complainant would indicate that she had voluntarily accompanied the first accused. The petitioners are said to have only facilitated the same. The de-facto complainant's wife was a major. She appears to have had illegal intimacy with the first accused. Adultery has been decriminalized. When the complainant's wife had voluntarily accompanied the first accused, the question of attracting offence under Section 363 of IPC does not arise at all. No case is made out against the petitioner. The impugned proceedings stands quashed. This Criminal Original Petition is allowed accordingly. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (W)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

mga/csm

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.Judicial Magistrate No.1,
Kuzhithurai, Kanyakumari District.
- 2.The Inspector of Police,
Marthandam Police Station,
Kanyakumari District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.S. SIVAKUMAR, Advocate (SR-34890[F] dated 17/11/2021)

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and

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RD(02.12.2021) 2P 5C