



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Monday, the Fifteenth day of November Two Thousand and Twenty One

PRESENT

The Hon`ble Mr.Justice G.ILANGO VAN

CRL OP(MD) No.9313 of 2021

V.VIBULANANDAN @ RANJAN ... PETITIONER / ACCUSED No.1
Vs

1 STATE REP BY,
THE INSPECTOR OF POLICE
THIRUVAIYARU POLICE STATION,
TANJAVUR DISTRICT.
(CR.NO.169 OF 2006) ...RESPONDENT

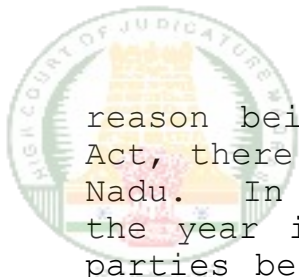
2 MANJULA ...2nd RESPONDENT/ DEFACTO-COMPLAINANT

Petition filed praying that in the circumstances stated therein and in the affidavit filed therewith the High Court may be pleased to call for the records in C.C.No.71 of 2015 on the file of the Judicial Magistrate, Thiruvaiyaru and quash the same in respect of the petitioner alone.

ORDER: This petition coming on for orders on this day, upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of MR.M.RAMU, Advocate for the petitioner and of MR.R.SIVAKUMAR, Government Advocate (Crl.Side) for 1st Respondent, the court made the following order:-

This matter was heard on merits and disposed of by dismissing the petitions on, 04.10.2021. Afterwards, the learned counsel appearing for the petitioner submitted that a factual mistake has been committed by this court in para 7 of the order, wherein it has been stated that as per the provisions of Tamil Nadu Registration of Marriage Act, 2009, only the competent person is to issue the marriage certificate. But however, it has been issued by the Tashidhar, Thiruvaiyaru, which is not valid under law.

2.It is nothing, but a factual mistake committed by this Court. Even as per the prosecution and the de-facto complainant, the marriage between the de-facto complainant and the first accused took place in 2006. So the provisions of the Tamil Nadu Registration of Marriage Act, 2009 may not be applicable to the facts of this case. But that factual mistake, that has been committed by this Court will not affect the final decision that has been taken by this court. The



reason being that before the Tamil Nadu Registration of Marriage Act, there was no registration of Marriage Act was in force in Tamil Nadu. In so far as Hindus are concerned over the circumstance of the year is made applicable. But here, the religion to which the parties belong to is not clear on record. No one has spoken about the above fact. Be that as it may, before 2009, the Sub Registrars were acting as a competent authority to register the marriages and they were maintaining the Registers also. So, the Sub Registrar is the competent person to issue marriage certificate. But here the Tashidhar, Thiruvaiyaru has issued the marriage certificate, which is not valid under law. Moreover, the copy of the marriage certificate also shows that it has been issued to the de-facto complainant and how, the petitioner is able to get the copy of the same is not explained in an acceptable manner.

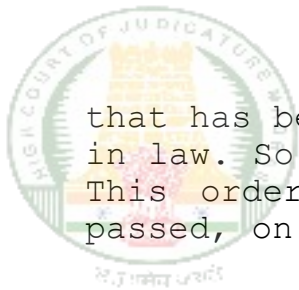
3. During the course of argument, the learned counsel appearing for the petitioner submitted that the marriage certificate was in the custody of the petitioner, who is residing in London and so, there was a delay in getting the same. But whatever may be the reason, as mentioned earlier, the Tashildar, Thiruvaiyaru is the competent person. So the final conclusion that has been reached by this court is not affected by the above factual mistake committed by this court in para 7 of the order.

4. More over, the learned counsel appearing for the petitioner even at that time of argument in the clarification stage, has submitted that the Hon'ble Supreme Court in the case of Anil Khadwiwala Vs. State (Government of NCT of Delhi) and another in Criminal Appeal No(s) No.1157 of 2019, dated 30.07.2019 held that in the interest of justice, when sufficient materials have been brought on record, the same must be considered.

5. No doubt that as per the above judgment of the Hon'ble Supreme Court, the second petition under section 482 of Cr.P.C is not bar and absolutely, in the main order, only clarification is that there must be a change of circumstances. As observed in the main order, absolutely the production of the marriage certificate that has been issued by the Tashidhar, Thiruvaiyaru cannot be considered to be a change of circumstance. So on the basis of such invalid of certificate, it may not be proper on the part of this court to allow this petition.

6. Whether actual marriage took place under law or not cannot be a matter for discussion in this matter. In the absence of sufficient facts, with regard to the religion to which the parties belong, as mentioned earlier, it is a matter for trial and during trial the petitioner can put forth his argument that are available to him.

7. So, I am of the considered view that the argument advanced by the learned counsel for the petitioner for reconsidering the order,



that has been passed by this court, on 04.10.2021 is not sustainable in law. So to this extent, this clarificatory order has been issued. This order may be treated as part and parcel of the main order passed, on 04.10.2021.

sd/-
15/11/2021

WEB COPY

/ TRUE COPY /

/ /2021

Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

- 1 THE JUDICIAL MAGISTRATE,
THIRUVAIYARU.
- 2 DO THROUGH:
THE CHIEF JUDICIAL MAGISTRATE
THANJAVUR AT KUMBAKONAM.
- 3 THE INSPECTOR OF POLICE,
THIRUVAIYARU POLICE STATION,
TANJAVUR DISTRICT.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
CRL OP(MD) No.9313 of 2021
Date :15/11/2021

PKP/JC/SAR-2/29.11.2021/3P/5C