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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.04.2022

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Orders Reserved On 08.04.2022	Orders Pronounced On 21.04.2022
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CrI.O.P.No.16623 of 2018
and
CrI.MP.No.8566 of 2018

1.Murugan
2.Murugasan
3.Sangeetha
4.Palaniyammal
5.Sivalingam
6.Krishnamoorthi
7.Gandhi
8.Madhammal
9.Rathinavel
10.Valarmathi
11.Chinnaraj
12.Palaniyammal
13.Ajith

... Petitioners

Vs.

Sangeetha

... Respondent

PRAYER:

Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the entire records pursuant to the case in C.C.No.29 of 2015 on the file of the District Munsif cum Judicial Magistrate Court, Pennagaram and quash the same.

For Petitioners: Mr.K.Sudhakar

For Respondent : Ms.Priyadharshini
Legal Aid Counsel



ORDER

The petitioners in C.C.No.29 of 2015 facing trial for the offence under Section 494 r/w. 109 and 506(i) IPC on the file of the learned District Munsif cum Judicial Magistrate, Pennagaram, filed this quash petition.

2.Despite notice served to the respondent, no representation for her. Hence, this Court appointed Ms.Priyadharshini as Legal Aid Counsel for the respondent.

3.The gist of the complaint is that the respondent married one Paramasivam, son of the first petitioner. The marriage took place in Kottai Temple at Adhiyaman Kottai. During their marriage, customary sridhana articles were presented. Apart from sridhana, Hero Passion Bike presented and cash of Rs.50,000/- given. After the marriage, they were living happily for some period, out of their wedlock, a girl child Baby Naveena was born to them. Thereafter, the respondent's husband became addicted to alcohol, sold all jewels and was not going for any work. Further, he demanded additional dowry of Rs.1,00,000/-, the other accused, namely, his parents, brother and sister-in-law also joined him and demanded dowry. The respondent was not treated properly and thereafter she was sent to her parents place. Further, the respondent's husband Paramasivam developed an illicit relationship with one Priya, when the same was questioned it was represented that unless the demand of dowry paid, he will not sever his relationship with the said Priya. Hence, the respondent filed a maintenance petition in M.C.No.11 of 2015 before the learned District Munsif cum Judicial Magistrate, Pennagaram. In the meanwhile, the respondent came to know that on 12.07.2015, the petitioners/accused solemnized marriage between her husband and the said Priya at Arulmigu Karumariyamman Temple at Manjanayakanalli. These petitioners actively participated in the marriage, despite knowing marriage between the respondent and Paramasivam was in existence and they have a child. When the same was questioned, the respondent was abused, threatened and hence, she lodged a complaint. After recording the sworn statement of the respondent and the statement of other witnesses, the Trial took the case on file on 11.09.2015 and issued summons. Hence, the petitioners approached this Court and filed this quash petition.

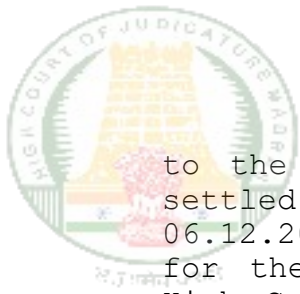
4.The contention of the petitioner is that the complaint was lodged merely on presumption and assumption. It is submitted that as per the complaint, it is stated that on 12.07.2015 marriage took place, these petitioners were found wearing new dresses and were seen in the temple, the petitioners went to the temple only for worship and nothing more. It is seen from the complaint that there is no specific allegations against the



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petitioners except for a sweeping statement. Further, there is nothing in the complaint to show that rituals of marriage performed. It is further submitted that the petitioners were not aware of the said Priya, later on enquiry it is understood that the said Priya already married and she is a wife of another person living separately. Further, the witnesses for the alleged marriage, namely, Sakthivel and Muniappan not stated anything about the rituals of marriage being performed. It is further submitted that there was some dispute between the respondent and her husband Paramasivam, she was living with her parents, later on the intervention of elders and family members, the issue got resolved. During the pendency of maintenance case in M.C.No.11 of 2015 the same got resolved before the Lok Adalat, a settlement was arrived and a property was settled in the name of their child, Baby Naveena, recording the same the maintenance case was closed on 09.09.2017, as per the settlement, both the respondent and her estranged husband to join together and despite settlement, this complaint not withdrawn by the respondent contrary to the agreement the Lok Adalat recordings produced. Further, from the Court adjudication in this case it is seen that summon to Priya/A2 is yet to be served, which confirms no such Priya is available in the Village and the complaint is proceeded on a misconception. Hence, the petitioners pray for quashing the complaint.

5.The learned counsel for the respondent submitted that in this case the petitioners are the parents, brother, sister-in-law, sister, brother-in-law and other family members of the respondent's husband Paramasivam. The marriage between the respondent and Paramasivam took place in a temple where both the petitioners' family and respondent's family participated. During the marriage, customary sridhana articles were presented, they were living happily for sometime, thereafter since the respondent's husband got addicted to alcohol he sold all the jewels and valuables. Further, the respondent's husband harassed the respondent, demanded more dowry, she was chased out of the matrimonial home and she was living in her parents place along with her child. Later she came to know through Sakthivel and Muniappan that on 12.07.2015 marriage took place between Paramasivam and one Priya in a temple, all the petitioners participated in the marriage. When the same was questioned by the respondent, she was abused, threatened, criminally intimidated and hence, she lodged a complaint. It is fairly submitted that during the pendency of maintenance case in M.C.No.11 of 2015, settlement was arrived between the respondent and her husband Paramasivam before the Lok Adalat on 09.09.2017, it was agreed that they both will live together along with the child and a property would be settled by her husband/Paramasivam in favour of the minor child nominating Paramasivam as guardian and once the minor attains majority, the property would devolve



to the child. Further, as per the agreement a property was settled in favour of the minor child vide Doc.No.3691/2017 on 06.12.2017. In support of her contention, the learned counsel for the respondent relied upon the decision of the Karnataka High Court in the case of Yallamma and others vs. Nagamma and another in Criminal Petition No.200134 of 2019.

6.Considering the submissions made and on perusal of the materials placed before this Court, it is seen that the respondent and Paramasivam got married and out of their wedlock a girl child, Baby Naveena was born. During the marriage, customary sridhana articles were given, later there was some matrimonial dispute between the respondent and her husband, due to which, the respondent was living with her parents along with the child. Further, the respondent's husband Paramasivam alleged to have developed illicit relationship with one Priya, when the same was questioned it was represented that unless the demand of dowry is paid, he will not sever his relationship with the said Priya. Hence, the respondent filed a maintenance petition in M.C.No.11 of 2015 before the learned Judicial Magistrate, Pennagaram. Later the respondent came to know through Sakthivel and Muniappan that her husband married the said Priya on 12.07.2015, the petitioners participated in the said marriage and hence, she lodged a complaint. During the pendency of these two cases, settlement arrived at, between them before the Lok Adalat on 09.09.2017 and as per the settlement property was settled in favour of the minor child. It is also seen that the said Priya is not available in the Village, she is married and settled elsewhere. From the complaint, it is seen that there is no averments and materials with regard to the rituals performed and marriage conducted, the petitioners might have been in the temple for some other reason. In the absence of specific averments and absence of materials to confirm the performance of marriage, rituals undergone, it cannot be stated that there was a second marriage.

7.Thus, on the above facts of the case this Court finds that no case made against the petitioners, warranting continuation of complaint and trial would amount to abuse of process of law.

8.In view of the above, the proceedings C.C.No.29 of 2015 pending against the petitioners on the file of the learned District Munsif cum Judicial Magistrate, Pennagaram is hereby quashed and also the other accused who are similarly placed. Accordingly, this Criminal Original Petition is allowed. Hence, the entire proceedings in C.C.No.29 of 2015 on the file of the learned District Munsif cum Judicial Magistrate, Pennagaram is hereby quashed. Consequently, the connected miscellaneous petition is closed.



9. This Court appreciates Ms. Priyadharshini legal aid counsel for the respondent in taking sincere efforts in effectively defending the case.

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Sd/-
Assistant Registrar (CS V)

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Sub Assistant Registrar

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To

1. The District Munsif cum Judicial Magistrate,
Pennagaram.
2. The Member Secretary,
Tamil Nadu Legal services Authorities
High Court buildings Chennai.

+1cc to Mr. K. Sudhakar, Advocate, S.R.No.27123
+1cc to Ms. Priyadharshini, Advocate, S.R.No.27297

CrI.O.P.No.16623 of 2018

JPL (CO)
CT 04/05/2022