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Crl.R.C.No.732 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.06.2022

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

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B.Purushothaman

... Appellant

Versus

The State Represented by,
Inspector of Police,
Podanur P.S.Crime No,16 of 2018,
All Women Police Station,
East Police Station,
Coimbatore City.

... Respondent

Prayer : Criminal Revision Petition filed u/s. 397 read with 401 of Cr.P.C to call for the records pertaining to Crl.M.P.No.2103 of 2022 in S.C.No.190 of 2021 passed by the Magalir Neethimandram (Mahila Court), Coimbatore and set aside the order dated 02.06.2022 by allowing this revision.

For Appellant : Mr.C.Emalias
for Mr. K.Balasubramaniam
For Respondent : Mr.S.Vinoth Kumar,
Government Advocate (Crl.Side)



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JUDGMENT

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This Criminal Revision is filed against the order the learned Magalir Neethimandram (Mahila Court), Coimbatore dated 02.06.2022 in Crl.M.P.No.2103 of 2022 in S.C.No.190 of 2021, whereby the application filed by the petitioner/Accused-1 for discharge has been dismissed.

2. It is seen that the final report proposed that the accused guilty for the offence under Sections 120(B), 376, 494, 495, 109 read with 420 and 506(I) of I.P.C

3. The learned counsel for the petitioner submitted that, on the face of it, there is a complaint of offence under Section 494 IPC and it is not a private complaint and therefore, the said offence cannot be taken cognizance of based on Police report. Once bigamy is alleged, the offence of rape disputing the marriage itself, on the face of it is redundant. Therefore, he would submit that the entire case against the petitioner is untenable and the prayer was wrongly dismissed by the trial Court.

4. On perusal of the materials available in this case, even though *prima facie*, there is a force in the submission of the learned counsel for the petitioner about the offence under Sections 376, 494 and 495 of IPC, however,



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a perusal of the material records of the case indicates the commission of the offence under Sections 406, 420 and 506(i) of IPC. Therefore, the petition for discharge cannot be allowed. But however, the trial Court, while framing charges shall take into account of the submissions made in respect of the offence under Sections 376, 494 and 495 of IPC and therefore, this Criminal Revision is ordered as follows:

(i) The order of the learned Magalir Neethimandram (Mahila Court), Coimbatore dated 02.06.2022 in Crl.M.P.No.2103 of 2022 in S.C.No.190 of 2021 is upheld;

(ii) However, it is open to the petitioner to raise all the contentions in respect of the charges for the offence under Sections 376, 494, 495 of IPC and the same shall be duly taken into consideration by the learned Magistrate at the time of framing of charges.

5. Accordingly, this Criminal Revision is ordered.

20.06.2022

Index : yes/no
Speaking order/Non-speaking order
sma



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To

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1. Magalir Neethimandram (Mahila Court),
Coimbatore
2. Inspector of Police,
Podanur P.S.
All Women Police Station,
East Police Station,
Coimbatore City.
3. The Public Prosecutor,
Madras High Court.



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D.BHARATHA CHAKRAVARTHY, J.

sma

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