



WEB COPY



Crl.O.P No.22589 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.09.2022

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THE HONOURABLE Ms. JUSTICE R.N.MANJULA

Crl.O.P No.22589 of 2021

and

Crl.M.P Nos.12277 & 12279 of 2021

1.Mohankumar Parthasarathy

2.Shrinanda Senguptha

... Petitioners

Vs.

Anita Rachel Fonseca

... Respondent

PRAYER: Criminal Original Petition filed under Section 482 of Criminal Procedure Code, praying to call for the entire records in C.C No.269 of 2021 pending on the file of the learned Additional Mahila Court, Chengalpattu and quash the same.

For Petitioners : Mr.Ajay Francis Inigo Loyola

For Respondent : Mr.M.Mohammed Rafi

ORDER

This Criminal Original Petition has been filed, seeking to call for the records pertaining to C.C No.269 of 2021 on the file of the Additional



Mahila Court, Chengalpattu and quash the same.

2. Heard the learned counsel appearing for the petitioners and the learned counsel appearing for the respondent.

3. The petitioners are the accused 1 & 2 in the criminal case filed by the respondent.

4. The case of the respondent is that the 1st petitioner married her on 05.11.2003 and they have been living as couples in Chennai. Out of their wedlock, they have two male children. Since the marital relationship between the couples went bitter, the 1st petitioner has filed a petition for dissolution of marriage in I.D.O.P No.847 of 2017 before the VII Additional Family Court, Chennai.

5. Even during the subsistence of the earlier marriage between the respondent and the 1st petitioner, he married the 2nd petitioner on 09.02.2020, at Olympia Opaline, Old Mahabalipuram Road, Navalur, Chennai. The marriage between the 1st and 2nd petitioners was abetted by



the accused 3 & 4. On these allegations, a private complaint was given by the respondent and the same was taken on file in C.C No.269 of 2021 by the Additional Mahila Court, Chengalpattu.

6. The learned counsel for the petitioners/accused 1 & 2 submitted that the Courts at Chengalpattu have got no jurisdiction to entertain the complaint, because the alleged place of occurrence and the residences of the accused 1 & 2 would fall within the jurisdiction of Alandur Taluk and hence, the complaint is not maintainable; in the complaint given by the respondent, there are no prima facie materials present to make out a case for the offences under Sections 494 & 109 IPC r/w Section 34 of the Indian Penal Code, 1860; the essential ingredients of Section 494 IPC is not made out in the complaint given by the respondent for trying a case against the accused for the offence under Section 494 IPC.

7. The learned counsel for the respondent submitted that both the place of occurrence and the residences of the accused are situated at Navalur which fall within the jurisdiction of the Courts at Chengalpattu only; there are enough ingredients in the complaint to make out a case of



bigamy and hence, it cannot be said that the complaint does not have any prima facie material to make out a case.

8. On perusal of the records, it is seen that the 1st petitioner and the respondent have been facing matrimonial disputes in I.D.O.P No.847 of 2017 before the VII Additional Family Court, Chennai. Even according to the 1st petitioner, he does not deny his marriage with the respondent. The allegation of the respondent is that the marriage between the 1st and 2nd petitioners had taken place on 09.02.2020, even when her lawful marriage with the 1st petitioner was subsisting. The averments in the complaint would show that the complainant has stated about the date, place, the manner in which the marriage had solemnized and details of the persons who were present at the time of marriage.

9. It is further alleged that she saw the wishes and greetings sent by the friends of the petitioners 1 & 2 for their wedding in social media. The further allegation is that the accused themselves had uploaded their family pictures. When all these facts have been stated, it cannot be said that it is a case without prima facie materials. There are sufficient materials seen on



record to make out a case against the petitioners for the offence under Section 494 IPC. Only when the parties are put to trial, the veracity of the facts alleged by the respondent and the denial statement given by the petitioners can be proved.

10. So far as the jurisdiction is concerned, it is seen from the averments that the place of occurrence is Navalur. The case was taken on file by the Additional Mahila Court, Chengalpattu, only because Navalur falls within the jurisdiction of the Chengalpattu District.

11. The learned counsel for the petitioner submitted that the place of occurrence falls within the jurisdiction of the Thuraipakkam Police Station and hence, the case falls under the jurisdiction of the Judicial Magistrate, Alandur. But the Court which has taken the cognizance of the case would be conscious of its jurisdiction and hence, there need not be any doubt about jurisdiction. Regarding the other facts submitted by the learned counsel for the petitioners, those facts are to be proved only by substantiating the same by participating in the trial. It is needless to say that the respondent has got a duty to prove her allegations and the charges for which the case has been



Crl.O.P No.22589 of 2022

taken on file. Since it is not a case where there is absence of any prima facie material in order to quash the same, I am not inclined to allow this petition.

12. In the result, the Criminal Original Petition stands dismissed.

Consequently, connected Miscellaneous Petitions are closed.

29.09.2022

Index : Yes/No
Speaking Order : Yes / No

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To

The Additional Mahila Court,
Chengalpattu.



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R.N.MANJULA, J.,

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