



Crl.O.P.No.29239 of 2022
in
Crl.A.SR.54573 of 2022

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V. SIVAGNANAM, J.

This Criminal Original Petition is filed seeking to grant special leave to appeal against the order of acquittal passed in C.C.No.4658 of 2013 on 19.10.2022 by the learned XXIII Metropolitan Magistrate, Saidapet.

2. The petitioner herein is the wife of 1st respondent. On a private complaint given by the petitioner herein against the respondents, the learned XXIII Metropolitan Magistrate, Saidapet took cognizance of the same in C.C.No.4658 of 2013 for the offences under sections 420, 493, 494 and 506(2) IPC and after full fledged trial, the learned Magistrate acquitted the respondents from the above said charges. The petitioner has filed the above petition seeking to grant special leave to appeal against the acquittal of the respondents by the trial court from the charges.

3. The learned counsel for the petitioner submitted that the trial court failed to consider the evidence adduced by her. In this case,



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though the petitioner as PW1 and another witness viz., PW2-Kalavathi gave their evidence in favour of the petitioner, the trial court failed to consider the same and acquitted the accused. Hence, she filed this petition seeking leave to file appeal against the acquittal of the respondents.

4. Heard the learned counsel appearing for the petitioner and perused the materials available on record.

5. On perusal of records, the fact reveals that the petitioner is the wife of the respondent. According to the petitioner, she married the accused in the year 1991 and they are having two children. After that, difference of opinion arose between both sides and the respondent assaulted her frequently and he is also having drinking habit. Subsequently, he married the second respondent as his second wife without validly divorcing her. Since the respondent cheated the petitioner and married a woman, she filed a complaint for the offences punishable under sections 420, 493, 492 and 506 IPC.



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6. Before the trial court, the petitioner examined herself as PW1 and also examined one Kalavathi, her relative as PW2 and also filed 8 documents. On the side of the respondent/accused, they have filed one document obtained under the Right to Information Act. The trial court, after considering the evidence adduced on both sides, found the charges against the accused were not made out.

7. I have gone through the evidence of PW1 and PW2. In his evidence, the petitioner/PW1 has stated about the marriage between her and the accused. It is alleged that the accused married the second accused at Tiruppur Koil, but there is no substantial evidence available to support her contention that the 1st respondent married the second respondent as her second wife. The another witness PW2 Kalavathi also did not depose about the alleged second marriage and she only deposed that the accused is having relationship with another woman and did not speak about the alleged second marriage as stated by the petitioner that the marriage has been taken place at Thiruppur Temple.

8. There was no evidence adduced by the petitioner to prove second marriage performed by the accused. Thus, the ingredients



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attracting the offence under section 493 IPC is not made out. As there is no evidence for second marriage, the ingredient attracting offence section 494 is not made out and apart from this, there is no evidence available for cheating the complainant.

9. In these circumstances, the charges against the accused is not made out since no evidence is available against the accused to support the charge. Therefore, this Court is of the view that the trial court rightly acquitted the accused.

10. In view of the above discussions, I find no valid reason interfering with the acquittal order passed by the trial court. Hence the Special Leave Petition is dismissed as devoid of merits.

08.12.2022

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