



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.02.2022

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.R.C. (MD) .No.104 of 2020

WEB COPY

Uma

...Revision Petitioner/Petitioner/
Petitioner

Vs.

Arivalagan

...Respondent/Respondent/Respondent

PRAYER: Criminal Revision Case filed under Section 397 and 401 Cr.P.C. praying to call for the records in Cr.M.P.No.807 of 2019 in C.A.No.02 of 2019 dated 06.12.2019 on the file of the Hon'ble Learned Sessions Judge, Mahila Court, Pudukkottai and set aside the same by allowing the revision petition.

For Petitioner : Mr.K.Baalsundharam
For Respondent : Mr.M.Suresh

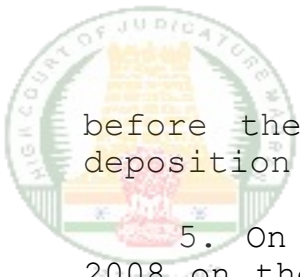
ORDER

This Criminal Revision Case has been filed challenging the order passed by the learned Sessions Judge, Mahila Court, Pudukkottai in Cr.M.P.No.807 of 2019 in C.A.No.2 of 2019 dated 06.12.2019, thereby dismissing the petition filed under Section 391 of Cr.P.C to receive the additional evidence.

2. The petitioner is the complainant and on her complaint, the case has been registered for the offences under Section 498(A), 494 read with Section 109 of IPC as against eight accused persons. The first accused is her husband and the second accused is the second wife of the first accused.

3. After completion of investigation, charge sheet was filed against the first and second accused for the offences under Section 498-A, 494 and against the third to eighth accused persons under Section 498-A, 494 read with Section 109 of IPC and the same has been taken cognizance on the file of the learned Judicial Magistrate, Aranthangi in C.C.No.211 of 2008 and the Trial Court convicted the first accused, namely the husband of the petitioner herein and others were acquitted. Aggrieved by the same, the petitioner preferred an appeal in C.A.No.2 of 2019 on the file of the learned Sessions Judge, Mahila Court, Pudukkottai.

4. While pending the appeal, the petitioner filed a petition under Section 391 of Cr.P.C to receive the deposition of the second accused made in S.T.C.No.141 of 2018 on the file of the learned Judicial Magistrate, Aranthangi as an additional evidence to prove that the second accused is the wife of the first accused. Further, the petitioner, to substantiate the husband and wife relationship



before the Appellate Court, she filed a petition to receive the deposition as an additional evidence.

5. On perusal of the the judgment rendered in S.T.C.No.211 of 2008 on the file of the learned Judicial Magistrate, Aranthangi, it revealed that the evidences of prosecution witnesses and Ex.P2, P3, P6 and P8 are sufficient to prove the valid marriage between the first accused and the second accused. The evidences of witnesses are cogent, coherent and inspired the confidence of the Trial Court and convicted the first accused for the offences punishable under Section 494 of IPC, whereas, the Trial Court acquitted the other accused persons for the offences under Section 494 and 109 of IPC. Therefore, there is no dispute that the first accused married the second accused as second wife. The only question is at the time of marriage of the second accused, whether, she had knowledge about the marriage between the petitioner and the first accused.

6. On perusal of the deposition of the second accused made in S.T.C.No.141 of 2018, which is sought to be marked as an additional evidence, it revealed that the second accused categorically denied the question that she had no knowledge about the marriage between the first accused and the petitioner herein and no information was given to her. Therefore, no purpose would be served by marking the deposition of the second accused made in S.T.C.No.141 of 2018 in the present case.

7. That apart, the second accused is not dead and when she is alive, as per Section 33 of Indian Evidence Act, 1972, it cannot be invoked and the deposition of the second accused cannot be taken into account as an additional evidence. Therefore, the Court below rightly dismissed the petition. This Court finds no infirmity or illegality in the order passed by the Court below.

8. In view of the above, this Criminal Revision Case is dismissed.

Sd/-

Assistant Registrar (AD II)

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/ /2022

Sub Assistant Registrar(CS)

Lm

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.



To

1. The Sessions Judge, Mahila Court,
Pudukkottai

2. The Judicial Magistrate, Aranthangi

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MGJ(17.03.2022) 3P 3C