



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.03.2022

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P. (MD)No.2359 of 2021

and

Crl.M.P(MD)Nos.1226 & 1227 of 2021

WEB COPY

1.Gayathri

2.Jeyamani

... Petitioners/Accused Nos.2 & 3

Vs.

1.State through,

The Inspector of Police,
Swamimalai Police Station,
Thanjavur District.

(Crime No.157 of 2019).

... 1st Respondent/Complainant

2.Stella Rani

... 2nd Respondent/
Defacto complainant

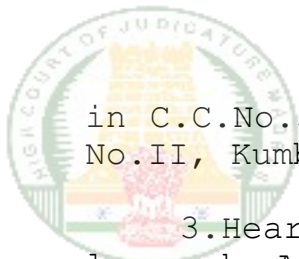
Prayer: Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records pertaining to C.C.No.33 of 2020 on the file of the learned Judicial Magistrate No.II, Kumbakonam in Crime No.157 of 2019 on the file of the first respondent police and quash the criminal proceedings as against the petitioners.

For Petitioner	: Mr.S.Chellapandian
For R - 1	: Mr.R.M.Anbunithi
	Additional Public Prosecutor
For R - 2	: Mr.R.Ragavendran

ORDER

This Criminal Original Petition has been filed to quash the proceedings in C.C.No.33 of 2020 on the file of the learned Judicial Magistrate No.II, Kumbakonam.

2.The second respondent lodged a complaint alleging that the defacto complainant is the wife of the first accused and the petitioners are the in-laws of the second respondent. The marriage between the first accused and defacto complainant was solemnized in the year 1996. Due to the wedlock, they were blessed with two children. On 23.06.2019, the defacto complainant was informed that her husband was going to marry one Nithya at Swamimalai Murugan Temple. Therefore, she went to the said Temple and involved wordy quarrel with her husband. But her husband threatened and scolded her with dire consequences. Hence, she preferred the complaint before the first respondent and the same has been registered in Crime No.157 of 2019. After completing the investigation, the first respondent filed a final report and the same has been taken on file



in C.C.No.33 of 2020 on the file of the learned Judicial Magistrate No.II, Kumbakonam, Thanjavur.

3.Heard the learned counsel appearing for the petitioners, the learned Additional Public Prosecutor appearing for the first respondent and the learned counsel appearing for the second respondent.

4.The trial Court had taken cognizance as against the petitioners for the offence under Section 494 of I.P.C. The first petitioner is the sister of the first accused and the second petitioner is the mother of the first accused and they were no way connected with the alleged marriage. In fact, they had no knowledge about the alleged marriage. That apart, the offence under Section 494 of I.P.C do not attract against the petitioners, who are being the sister and mother of the first accused, who allegedly got the second marriage when his first marriage is very much in subsistence with the second respondent herein. It is relevant to rely upon the provision under Section 494 of I.P.C., which reads as follows:-

"494. Marrying again during lifetime of husband or wife.-

Whoever, having a husband or wife living, marries in any case in which such marriage is void by reason of its taking place during the life of such husband or wife, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine."

5.The petitioners are neither the husband nor the wife of the second respondent herein. Therefore, the charge under Section 494 is not at all attracted as against the petitioners, who are being the sister and mother of the husband of the second respondent. In view of the above, the complaint cannot be sustained as against the petitioners and the same is liable to be quashed.

6.Accordingly, the impugned proceedings in C.C.No.33 of 2020 on the file of the learned Judicial Magistrate No.II, Kumbakonam is quashed as against the petitioners and the Criminal Original Petition is allowed. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (Crl side)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)



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 Judicial Magistrate No.II,
Kumbakonam
- 2.The Inspector of Police,
Swamimalai Police Station,
Thanjavur District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.S.CHELLA PANDIAN, Advocate (SR-12372[F] dated
16/03/2022)

Cr1.O.P(MD)No.2359 of 2021
15.03.2022

RK(28/03/2022) 3P 5C