



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22/03/2022

CORAM:

THE HON'BLE MR JUSTICE G.ILANGOVAN

Crl.O.P.(MD)No.6414 of 2019

and

Crl.MP(MD)Nos.4243 and 4244 of 2019

1.D.Moses Jayaraj

2.Renuga

: Petitioner/A5 and A6

Vs.

1.State represented by
The Inspector of Police,
Cantonment Police Station,
Trichy.

(Crime No.956 of 2014)

: Respondent 1/Complainant

2.A.Johnson

: Respondent 2/
De-facto Complainant

Prayer: Criminal Original Petition is filed under Section 482 Cr.P.C., to call for the records in CC No.688 of 2018 on the file of the Judicial Magistrate No.II, Trichirapalli.

For Petitioners : Mr.C.M.Arumugam

For 1st Respondent : Mr.P.Kottai Chamy
Government Advocate
(Criminal side)

For 2nd Respondent : Mr.B.Jameel Arasu

O R D E R

This criminal original petition has been filed by the petitioners seeking quashment of CC No.688 of 2018 on the file of the Judicial Magistrate No.II, Trichirapalli.



2. The case of the prosecution in brief:-

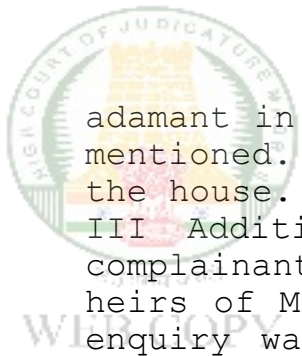
One Metilda is the daughter of the de-facto complainant. She was working as a Computer Engineer in Infosys Software Company and by suppressing the earlier marriage of A1, A2, A3 and A4 to A8 stating that they are the parents as well as the relatives, made the de-facto complainant to believe that the parents and relatives respectively. Believing the words of the above said persons, the de-facto complainant gave marriage to A1 on 11/12/2009. At that time of marriage, she was provided with 15 sovereigns of gold jewels and Rs.3.50 worth of Car and other things. So all the accused persons were charged under sections 406, 420 and 495 IPC.

3. Seeking quashment of the final report, this petition is filed by A5 and A6 on the ground that they are noway involved in the above said occurrence. No specific allegations have been made against them and these petitioners are the distant relatives of A1. None appeared on the side of the first petitioner during course of the above said marriage. The daughter of the de-facto complainant filed IDOP No.97 of 2010 before the Additional District Judge/Fast Track Court No.1, Trichy for dissolution of marriage. That was dismissed for non prosecution, on 11/07/2011. On 18/02/2011, his daughter died due to an road accident. Subsequent to that only, the de-facto complainant has filed a suit in O.S No.410 of 2013 before the Principal District Munsif, Trichy, to dissolve the marriage and that was allowed by the court. The marriage that took place between A1 and the daughter of the de-facto complainant was declared to be null and void. Subsequent to that only, a false complaint has been lodged. Even in O.S No.410 of 2013, no specific allegation has been made against these petitioners. After a lapse of three years, this complaint came to be filed by the de-facto complainant.

4. Heard both sides. The entire CD file has been called for and perused.

5. It is a very unfortunate case of the daughter of the de-facto complainant, who was married to A1, who also subsequently died in a road accident as stated above. Perusal of the CD file shows that A1 was also already married to one Makatha Ruby, on 13/12/2004.

6. Now the learned counsel appearing for the de-facto complainant would submit that by suppressing the above said marriage, the second marriage was performed, on 7/11/2009 in which the petitioners and their parents played vital role. It is further seen that on the basis of the complaint given by the de-facto complainant, enquiry was undertaken, in which the parents of A1 appeared and also given a statement that they will bring their son. So before that, A1 gave a complaint before CM Cell stating that their marriage took place on 11/11/2000 and again in the year 2019, he made a quarrel and left the matrimonial house. She was also



adamant in nature and the history with regard to IDOP has also been mentioned. So knowing that Metilda met with an accident, he visited the house. The de-facto complainant has also filed a suit before the III Additional District Munsif, Trichy, in 2012. The de-facto complainant filed the suit for declaration that they are the legal heirs of Metilda. So on that ground, he has given a complaint and enquiry was undertaken on the basis of the above said complaint. Before that, Metilda has given a complaint, on 09/03/2019 to the Commissioner of Police, Coimbatore stating that right from the marriage, she was ill-treated by the accused person in a drunken mood and she was harassed by demanding Rs.10,00,000/-and was also driven out of the house. In the enquiry, A2-E.Kirubakaran also appeared and given a statement making allegation against Metilda. So from the perusal of the file, it is seen that after the marriage, they were living for sometime and trouble has arisen between the husband and wife. There is a specific allegation to the effect that A1 was already married. That was suppressed by all the accused persons.

7.But even though during the course of argument, the learned counsel appearing for the 2nd respondent has submitted that the petitioners are not the real persons and they have impersonated the relatives of A1 and by impersonation, they have made the de-facto complainant to believe that they are the relatives. According to him, it is a clear case of impersonation. So, the matter must be proceeded in accordance with law.

8.In the light of the allegations made against each other, a direction was issued to the 2nd respondent to be present before this court. He was also present and stated that by suppressing the earlier marriage, second marriage was performed to her daughter. According to him, these petitioners are not true relatives of A1.

9.But the learned counsel appearing for the petitioners would stress upon a point that even as per the allegation made in the complaint, no relative from the side of A1 participated in the marriage. When that being so, these petitioners have been wrongly roped, since they are only distant relatives.

10.But perusal of the entire CD file shows that during the course of investigation, it was found that A1 was married previously to one Makatha Ruby and the second marriage was performed with the daughter of the de-facto complainant and the 3rd married was performed with one Rajakumari. The marriage group photograph has also shown the presence of several persons. But who are they is a matter for trial. So when a serious allegation of suppressing the first marriage, the misappropriation of jewels and sridhana articles and performance of the continuous marriage, I am of the considered view that this is not a fittest case to quash the same. Whether these petitioners also participated in the marriage or not is a



11. So in the light of the above said facts and circumstances, this court is of considered view that this court is not inclined to quash the case against the petitioners. Accordingly, this criminal original petition is **dismissed**. Consequently connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CS III)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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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, Trichirapalli.

2.The Inspector of Police,
Cantonment Police Station,
Trichy.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.C.M.ARUMUGAM, Advocate (SR-13799[F] dated 23/03/2022)
Crl.O.P. (MD)No.6414 of 2019
22/03/2022

MGJ(31.03.2022) 4P 5C