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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 24/11/2022

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The Hon'ble Mr.Justice **G.ILANGOVAN**

Crl.RC(MD)No.974 of 2022

P.Esakkimuthu : Petitioner/Petitioner

Vs.

1.P.Ayyappan
2.M.Muthu Selvan
3.Smt.Ajitha
4.Mrs.Subba Ananthi
5.Mrs.Saroja : Respondents/Respondents

PRAYER:-This Criminal Revision has been filed under section 397 r/w 401 of the Criminal Procedure Code, to call for the records and to set aside the order dated 05/08/2022 passed by the Judicial Magistrate Court No.II, Nagercoil, in Crl.M.P No.7746 of 2021.

For Petitioner : Mr.K.Umasankar

For R1 and R5 : No appearance

For R2 and R4 : Mr.D.Srinivasaraghavan

For 3rd respondent : Mr.N.Shyllappa Kalyan

**ORDER**

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This Criminal Revision has been filed seeking in order to set aside the order, dated 05/08/2022 passed by the Judicial Magistrate Court No.II, Nagercoil, in CrI.M.P No.7746 of 2021.

2.The facts in brief:-

The petitioner filed a complaint under section 200 Cr.P.C before the trial court with the following allegations:- The complainant;s 2nd daughter by name Saranya was working in Syndicate Bank, Nagercoil. She was born, on 17/07/1991. On the date of the complaint, she was aged about 30 years. The first accused is his owner brother and the marriage proposal for his 2nd daughter namely Saranya was arranged. At that time, the bio-data of the second accused was available. On enquiry, they came to know that he was already married and got two children. So the marriage proposal was dropped, on 19/04/2021. In the meantime, the above said Saranya went for job, but later did not return. So a complaint was lodged. He came to know that she was kidnapped and kept in an illegal custody in the house of the first accused. During enquiry, the police without properly considering



3.The above said complaint was enquired by the trial court, and by order, dated 05/08/2022 dismissed the same stating that no *prima facie* case has been made out to take the cognizance of the offence. By exercising the power under section 203 Cr.P.C, the above said private complaint was dismissed.

4. Now questioning the legality of the above said order, this revision has been preferred.



5.The respondent2 to 4 were also served and they also represented by counsel.

6.Heard the learned counsel appearing for either side and perused the materials available on record.

7.Perusal of the entire records and the facts and circumstances of the case clearly shows that the petitioner is not satisfied with the marriage that was performed by her second daughter namely Saranya with A2. He was not interested in the above said marriage and it has been stated by him to the effect that already A2 was married and got two children also. But whether any such complaint is maintainable at his instance is the only question, which arises for consideration for sustaining the action under section 494 IPC. Only the aggrieved party can approach the court by way of filing a private complaint. Here, the petitioner is the father and his daughter has no grievance.

8.With regard to the above said marriage during the course of enquiry, it came to notice by the police to the effect that the allegation of second marriage itself



9. Even the attempt that was made by the before the Division Bench of this court by filing HCP(MD)No.1485 of 2021 did not yield any result. Finding that with false averments, the above said petition was filed, penalty of Rs.5,000/- was imposed upon the petitioner. The order is dated 05/10/2021. But even before the above said petition, it appears that the above said complaint was enquired by the police and later, it was closed. So suppressing all these facts the petitioner filed the above said HCP. All those things were taken in by the trial court to find out that no *prima facie* case has been



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G.ILANGOVAN, J

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