



Crl.O.P.No.7254 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.10.2023

CORAM

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

**Crl.O.P.No.7254 of 2021**  
**and**  
**Crl.M.P.No. 4841 of 2021**

1. Buddanesan  
2. Manimegalai  
3. Priya Poornima ... Petitioners

-Vs-

1. The State Represented by  
Sub-Inspector of Police,  
All Women Police Station,  
Cuddalore.

2. Lakshmi ... Respondents

**Prayer:-** Criminal Original Petition filed under Section 482 of Cr.P.C.  
praying to call for the records in C.C.No.52 of 2018, on the file of the  
Additional Mahila Court (Magistrate Level) Cuddalore and quash the  
same.

For Petitioners : Mr.P.Manikannan  
For R1 : Mr.A.Gopinath  
Government Advocate (Crl. Side)  
For R2 : No Appearance



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**ORDER**

This Criminal Original Petition has been filed to quash the proceedings in C.C.No.52 of 2018 on the file of the Additional Mahila Court (Magisterial Level), Cuddalore.

2. Heard the learned counsel appearing for the petitioners and the learned Government Advocate (Crl.Side) appearing for the first respondent and perused the materials available on record.

3. The case of the prosecution is that the second respondent fell in love with the first accused. Thereafter, they got married and they gave birth to children. Due to misunderstanding, they got separated and the first accused got married to the 5<sup>th</sup> accused. The said marriage was solemnized with the help of other accused persons. Thereafter, the second respondent was driven out from the matrimonial home. Hence, the complaint.

4. On receipt of the complaint, the first respondent registered a case in Crime No.1 of 2018 for the offences under Sections



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294(b), 506(i), 494, 109 and 352 of IPC and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act, 2002. After completion of investigation, the first respondent filed final report, in which the petitioners are arrayed as A3 to A5. They were charged for the offence under Section 494 of IPC.

5. The learned counsel appearing for the petitioners would submit that the petitioners had no knowledge about the first marriage. That apart, under Section 198 of Cr.P.C, the Court cannot take cognizance for the offence punishable under Section 494 of IPC, without any private complaint being filed by the aggrieved persons. However, the Trial Court had taken cognizance on the final report submitted by the first respondent. He further submitted that no marriage was solemnized between the first accused and the fifth accused, in accordance with the Hindu Marriage Act.

6. The learned Government Advocate (Crl.Side) appearing for the first respondent submitted that the provision under Section 198 of Cr.PC is not attracted in this case, since the second respondent lodged a



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complaint alleging various allegations. Therefore, the respondent registered an FIR for the offences under Section 294(b) and 506(i) read with 109 of IPC and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act, 2002. Though the first respondent filed charge sheet for the offence under Section 194 of Cr.P.C as against the petitioners, which is pending for framing charge before the Trial Court, there are materials available to attract the offences under Sections 94(b) and 506(i) read with 109 of IPC as against the petitioners.

7. It is seen that the petitioners are arrayed as A3 to A5. Though FIR has been registered for the other offences, the petitioners were charged only for the offence under Section 494 of IPC. The first respondent cannot charge the petitioners for the offences punishable under Section 494 of Cr.P.C without any other offences. The provision under Section 198 of Cr.P.C says that no Court shall take cognizance of an offence punishable under Chapter XX of the Indian Penal Code except upon a complaint made by some person aggrieved by the offence.



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8. In the present case, the second respondent lodged a complaint and the first respondent registered a FIR. After completion of investigation, the Court had taken cognizance on the final report for the offence under Section 494 of IPC alone. Further, there is no evidence to show that only on the knowledge of the petitioners, the alleged second marriage was solemnized between the first accused and the fifth accused. There is also no evidence to show that the alleged second marriage was solemnized between the first accused and the fifth accused. Therefore, the charge under Section 494 of IPC as against the petitioners cannot be sustained and it is liable to be quashed.

9. In view of the above discussions, the proceedings in C.C.No.52 of 2018 on the file of the Additional Mahila Court (Magisterial Level), Cuddalore, is hereby quashed as against the petitioners alone. Accordingly, this Criminal Original Petition stands allowed. Consequently, connected miscellaneous petition is closed.

03.10.2023.

Internet : Yes  
Index : Yes/No  
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**G.K.ILANTHIRAIYAN, J.**

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To

1. The Judicial Magistrate,  
Additional Mahila Court,  
Cuddalore.
2. The Sub-Inspector of Police,  
All Women Police Station,  
Cuddalore.
3. The Public Prosecutor  
Madras High Court,  
Chennai.

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