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Crl.O.P.No.8132 of 20__

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.08.2023

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THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

Crl.O.P.No.8132 of 2021
and
Crl.M.P.Nos.5356 & 5357 of 2021

D. Velmurugan ... Petitioner

/vs/

V. Thamilselvi ... Respondent

Prayer : Criminal Original Petition has been filed under section 482 of Cr.P.C. to call for the records of the case in C.C.No.5 of 2021 on the file of the Judicial Magistrate No.1, Ulundurpet and quash the same.

For petitioner ... Mr. S.V.Karthikeyan

For Respondent ... Mr. A. Ramesh
Advocate (crl.side)

ORDER

This Criminal Original Petition has been filed to quash the proceedings in C.C.No.5 of 2021 on the file of the Judicial Magistrate No.1, Ulundurpet.



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2. The learned counsel for the petitioner submitted that the petitioner is an accused in C.C.No.5 of 2021 on the file of the Judicial Magistrate No.I, Ulundurpet. The respondent/defacto complainant had filed a private complaint against the petitioner/accused on the allegation that the petitioner, without disclosing his first marriage with one Muthulakshmi, married the respondent on 25.10.2019. When the respondent came to know about the first marriage of the petitioner, she attempted to lodge a complaint. At that time, at the instigation of the petitioner, some persons waylaid her and threatened her with dire consequences.

3. The learned counsel further submitted that on the date of allegation, he was working in somewhere else along with Election Officer during the election duty and the allegation against the petitioner is a false one. Hence, seeks to quash the case.

4. The learned counsel appearing for the respondent submitted that there is a video evidence to prove their marriage. Further, three witnesses have been examined on the side of the complainant before the Trial Court and posted for cross examination of witnesses and now the trial is pending.



5. I have considered the matter in the light of the submissions made on both sides and perused the materials available on records carefully.

6. On perusal of the records, it reveals that three witnesses have been examined on the side of the complainant and posted for cross examination. Further the defence of the petitioner that the petitioner was not with the respondent and he was on election duty in somewhere else at the time of alleged occurrence. This disputed fact has to be adjudicated by the Trial Court by considering the evidence of the parties. The factual dispute cannot be adjudicated before this Court while exercising the power under Section 482 of Cr.P.C. It does not meet the parameters laid down by the Hon'ble Supreme Court in the following cases:

(i) R.P.Kapur Vs. The State of Punjab* reported in *AIR 1960 SC 866

(ii) State of Haryana & Ors. Vs. Ch.Bhajan Lal & Ors.* reported in *AIR 1992 SC 604

(iii) M/s.Neeharika Infrastructure Pvt. Limited Vs. State of Maharashtra & Ors.* reported in *2021 SCC Online SC 315

7. Since three witnesses have been examined on the side of the complainant, the petitioner/accused may work out his remedy and raise all his



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defence before the Trial Court. Hence, I find no reason to quash the criminal proceedings and I find no merit in the criminal original petition and this Criminal Original Petition is not maintainable and the same is liable to be dismissed.

8. Accordingly, this Criminal Original Petition is dismissed. The petitioner is permitted to raise all his defence before the Trial Court. Consequently, connected miscellaneous petitions are closed.

Index : Yes/No
Internet: Yes/No
mrp

11.08.2023

To

The Judicial Magistrate No.1,
Ulundurpet



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V.SIVAGNANAM, J.

mrp

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