



WEB COPY



Crl.O.P.No.19312 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.06.2023

CORAM

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

Crl.O.P.No.19312 of 2021

and

Crl.M.P.Nos.10603 & 10605 of 2021

1.Thiru.K.Karthik

2.Thiru.B.Krishnamoorthy

3.Mrs.Suseela

... Petitioner

Vs.

1.State Rep. by

Inspector of Police,

All Women Police Station,

Katpadi Police Station,

Vellore District.

2.Smt.Umalakshmi

...Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Criminal Procedure Code to call for records pertaining to the C.C.No.45/2022 pending on the file of the Judicial Magistrate No.5, Vellore and quash the same in respect of the petitioner/A-1 to A-3.

[Prayer amended as per order in Crl.MP.No.5110 of 2022 in Crl.OP.No.19312 of 2021 dated 19.04.2022]

For Petitioner : M/s.A.Rajeshkanna

For Respondent : Mr.A.Damodaran, Addl. Public Prosecutor [R.1]

: M/s.Kannadhasan [R.2]



ORDER

The petition is to quash the final report filed for the offence under Section 417 of IPC.

2. The 1st petitioner is the husband of the 2nd respondent and the 2nd and the 3rd petitioners are the parents of the 1st petitioner. It is alleged in the final report that the petitioners had suppressed the fact that the 1st petitioner is a diabetic and a blood pressure patient, and they got the 1st petitioner married to the 2nd respondent.

3(a). The learned counsel for the petitioners would submit that the matrimonial dispute is sought to be converted as a case of cheating. There is a divorce case pending between the 1st petitioner and the 2nd respondent in HMOP.No.75 of 2019, on the file of the Principal Sub Judge, Vellore, where the parties had traded allegations against each other.

3(b). The learned counsel further submitted that the marriage between the 1st petitioner and the 2nd respondent took place on 04.06.2018. The FIR which culminated in the impugned final report was registered on



08.05.2019. The allegations contained in the impugned final report would not constitute any of the offences alleged.

5. The learned counsel for the de facto complainant admitted that there is a divorce case pending between the parties.

6. Heard the learned Additional Public Prosecutor.

7. This Court, on perusal of the impugned final report, finds that the allegation is that the petitioners had suppressed the fact that the 1st petitioner is a diabetic and a blood pressure patient, and they got the first petitioner married with the de facto complainant. However, in the FIR, it is seen that the primary allegation against the 1st petitioner is that he is impotent. The very same issue is pending consideration before the Family Court. The grievance of the 2nd respondent appears to be that the 1st petitioner is incapable of conjugal relationship. This is a matter which has to be adjudicated only before the Family Court. This cannot be the subject matter of prosecution of the petitioners for the offence of cheating. The



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impugned prosecution is therefore an abuse of process of law and is liable to be quashed. Hence, the impugned final report is quashed as against the petitioners.

8. In view of the above, this Criminal Original Petition is allowed.

Consequently, the connected Miscellaneous Petitions are closed.

22.06.2023

Index : Yes/No
Internet : Yes/No
Neutral Citation : Yes/No
shr

To,

- 1.The Inspector of Police,
All Women Police Station,
Katpadi Police Station,
Vellore District.
- 2.The Judicial Magistrate No.5, Vellore.



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SUNDER MOHAN. J,

shr

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