



Crl.O.P.No.18574 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.08.2023

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Crl.O.P.No.18574 of 2023

and

Crl.M.P.No.12356 of 2023

1.Arunkumar

S/o. Ponnusamy

2.Ponnusamy

S/o. Late Chinnakuzhanthai

3.Sumathi

W/o. Ponnusamy

.. Petitioners

Vs.

1.State represented by

The Inspector of Police,
All Women Police Station,
Ranipet, Ranipet District.
[Crime No.3 of 2022]

2.S.Sajel

D/o. Selvakumar

..Respondents



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PRAYER : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, 1973, praying to call for the records and to quash the proceedings in Crime No.3 of 2022 on the file of first respondent.

For Petitioners : Mr.N.Arun Kumar
For Respondents : Mr.A.Damodaran
Additional Public Prosecutor [R1]

ORDER

This Criminal Original Petition has been filed to quash the First Information Report in Crime No.3 of 2022 pending on the file of first respondent.

2. The second respondent gave a complaint on the ground that she married the first petitioner on 26.04.2020 and the said marriage took place based on the advertisement given by the first petitioner in Bharat Matrimony. According to the second respondent, even before the dissolution of the first marriage, such an advertisement was given and thereby, the first petitioner had cheated the second respondent. Based on this complaint, the First Information Report in Crime No.3 of 2022 pending on the file of first respondent came to be registered against the first petitioner and his parents,



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who are added as A2 and A3 in the First Information Report.

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3. Heard Mr.N.Arun Kumar, learned counsel for petitioners and Mr.A.Damodaran, learned Additional Public Prosecutor appearing for first respondent.

4. It is seen from records that the first petitioner and the second respondent have already filed a petition in H.M.O.P.No.5624 of 2022 seeking for mutual consent divorce and this petition was ordered on 07.02.2023 by the VII Additional Family Court, Chennai. For proper appreciation, the relevant portions in the order are extracted hereunder:

“ 2.THE AVERMENTS IN THE PETITION ARE AS FOLLOWS:-

The marriage between the first petitioner and the second petitioner was solemnized on 26.04.2020 at Arulmigu Theerthagiri Murugan Temple, Puthuvazur, Vellore as per Hindu rites and customs. Out of wedlock they do not have any issues. Misunderstanding developed between the petitioners and they got separated from 25.01.2021 and started residing away from each other ever since from then, due to temperamental incompatibility. All efforts taken by the friends and relatives were ended in vain. There is no possibility for reunion. Their marriage had irretrievably broken down. Both the petitioners have exchanged their respective articles, gold and silver jewels, belongings and whatsoever. They undertake



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not to lay any past/present/future. The second petitioner has withdrawn the divorce case in HMOP No.2335/2021 and maintenance case in MC No.48/2022 on 05.12.2022 filed by her, and also the domestic violence proceedings against the first petitioner and his family members before District Social Welfare Officer, Vellore, and the police complaint before Ranipet All Women Police Station. There is no further claim or counter claim against each other in future. Hence this petition is filed for seeking mutual divorce.

3.Points for consideration:

Whether the petitioners are entitled for divorce by mutual consent?

Point:

4. Heard both side. Perused the petition and documents. This petition has been presented in this Court on 05.12.2022 Under Section 13-B of The Hindu Marriage Act, and the same has been adjourned to 05.06.2023 after the expiry of the 6 months statutory period. IA No.01/23 for urgent petition and I.A.No.02/2023 for advance the hearing petition filed and allowed on 02.02.2023. The petitioners appeared in person on 02.02.2023 and have moved a waiver petition in I.A.No.3/2023 for waiving the mandatory period of six months. This Court persuaded the petitioners for reunion and they were already referred for counseling and the petitioners consent remained intact and both asserted their willingness and voluntariness to get divorce by mutual consent. Counseling ended in failure and they mutually agreed for divorce. Hence, considering the long separation of the parties and also the fact that both parties are agreed that there is no chance for re-union and also on considering the dictum laid down by the Hon'ble Supreme Court in Amardeep Singh -Vs- Harveen Kaur, the 6 months period has waived.

5. The 1st petitioner and the 2nd petitioner were examined as P.W.1 and P.W.2 through proof affidavits. Ex.P.1 to Ex.P.6 were marked. From their evidence, it is clearly seen that the petitioners 1 and 2 are husband and wife and that their marriage was solemnized on 26.04.2020 at Arulmighu Theerthagiri Murugan Temple,



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Puthuvazur, Vellore as per Hindu rites and customs. To prove their marriage, they filed Marriage Invitation and Marriage Photo under Ex.P.1 and Ex.P.2 respectively.

6. Considering the above, this Court felt that there is no possibility for re-union of the petitioners and the marriage between the parties has been irretrievably broken down. Hence, considering the evidence of PW1 and PW2, since the mutual application is voluntary and that passage of time would not improve the matter, a decree of divorce by mutual consent would be granted in the interest of both the petitioners. Hence this petition is allowed. This point is answered accordingly in favour of the petitioners.

In the result, this petition is allowed and the marriage between the petitioners solemnized on 26.04.2020 at Arulmigu Theerthagiri Murugan Temple, Puthuvazur, Vellore is hereby dissolved, by a decree of divorce by mutual consent. No costs.”

5. It is clear from the above that the second respondent has agreed to withdraw all the pending cases including the police complaint pending before the first respondent. Based on the same, the marriage itself has been dissolved by mutual consent.



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N.ANAND VENKATESH, J

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6. In the light of the above development, no useful purpose will be served in keeping the First Information Report pending.

Accordingly, this Criminal Original Petition is allowed and the First Information Report in Crime No.3 of 2022 pending on the file of first respondent, is hereby quashed. Consequently, connected miscellaneous petition is closed.

16.08.2023

Index : Yes/No

Internet : Yes/No

Neutral Citation : Yes/No

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To

1. The Inspector of Police,
All Women Police Station,
Ranipet, Ranipet District.
Crime No.3 of 2022

2. The Public Prosecutor
High Court of Madras.

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