



Crl.O.P.Nos.25904 of 2018 & Crl.O.P.No.695 of 2019

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.11.2023

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.O.P.No.25904 of 2018 & Crl.O.P.No.695 of 2019 and
Crl.M.P.No.14847 of 2018

Crl.O.P.No.25904 of 2018

1. Usha Rani
2. Kamaraj

... Petitioners

Vs.

1. The State by
The Inspector of Police,
All Women Police Station,
Myladuthurai, Nagapattinam District.
(Crime No.09 of 2017).

2. Radhika

... Respondents

PRAYER in Crl.O.P.No.25904 of 2018: Criminal Original Petition filed under Section 482 of Cr.P.C. praying to call for the records in C.C.No.221 of 2018 pending on the file of the learned Judicial Magistrate No.1, Myladuthurai, Nagapattinam District and quash the charge sheet as against the petitioners.



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Crl.O.P.No.695 of 2019:-

K.Sangeetha

... Petitioner

Vs.

1. The State by
The Inspector of Police,
All Women Police Station,
Myladuthurai, Nagapattinam District.
(Crime No.09 of 2017).

2. Radhika

... Respondents

PRAYER in Crl.OP.No.695 of 2019: Criminal Original Petition filed under Section 482 of Cr.P.C. praying to call for the records in C.C.No.221 of 2018 pending on the file of the Judicial Magistrate No.1, Myladuthurai, Nagapattinam District and quash the charge sheet as against the petitioner.

(In both the cases)

For Petitioners : Mr.T.R.Kathiravan

For Respondent 1 : Mr.L.Baskaran,
Government Advocate (Crl.Side)

For Respondent 2 : No appearance



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COMMON ORDER

These Criminal Original Petitions have been filed to quash the proceedings in C.C.No.221 of 2018 on the file of the Judicial Magistrate-No.1, Myladuthurai, Nagapattinam District thereby taken cognizance for the offences punishable under Sections.294(b), 498(A), 494 of IPC r/w.109 of IPC and Section.4 of Tamilnadu Prohibition of Harassment of Woman Act, 2002.

2. The petitioners in Crl.O.P.No.25904 of 2018 are arrayed as 3rd and 4th accused. The petitioner in Crl.O.P.No.695 of 2019 is arrayed as Accused No.2.

3. The case of the prosecution is that the 2nd respondent got married the 1st accused on 02.09.2001. Due to marital wedlock, the 2nd respondent gave birth to two children. During their marriage, she was presented 15 sovereigns of Jewels, ½ kg silver and house hold articles worth about Rs.3,00,000/-. The 1st accused went to abroad for his avocation and returned to India. However, he is a drunkard and sold out



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the entire jewels which were presented in favour of the 2nd respondent/complainant. Thereafter, the 1st accused tortured the 2nd respondent to the core and demanded huge amount of dowry from the 2nd respondent. On the advise of brother-in-law of the 2nd respondent, the Defacto-complainant/2nd respondent went to her parents house and lived separately. In the said circumstances, the 1st accused filed a divorce petition in H.M.O.P.No.79 of 2014 before the Subordinate Court, Mayiladuthurai and the same was subsequently dismissed for default. The 2nd respondent/Defacto-complainant has also filed petition in H.M.O.P.No.83 of 2014 for seeking Maintenance and it is still pending. While being so, on 12.11.2014, the 1st accused got married the 2nd accused, when the first marriage is still in subsistence. The 3rd and 4th accused helped the 1st accused to marry the 2nd accused and helped for their marriage. Hence, the complaint.

4. On receipt of the same, no FIR was registered and as such the 2nd respondent filed a private complaint before the Judicial Magistrate No.1, Mayiladuthurai and the same was ordered and forwarded under



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section 156(3) of Cr.P.C. On such order/direction, the 1st respondent registered FIR in Cr.No.09 of 2017 for the offences under sections 498(A), 494 of IPC and Section 4(1) of Tamilnadu Prohibition of Harassment of Woman Act, 2002. After completion of investigation, the 1st respondent filed final report and the same has been taken cognizance in C.C.No.221 of 2018 on the file of the learned Judicial Magistrate I, Mayiladuthurai. The petitioners are arrayed as Accused No.2 to 4.

5. Even according to the 2nd respondent, the entire allegations leveled as against the 1st accused is that at the time of their marriage her parents presented jewels and silver articles. Both of the presentations were sold out by the 1st accused, since he is drunkard. Therefore, the 1st accused demanded huge amount of dowry and as such the Defacto-complainant was advised to go to her parents house. She had gone to her parents house since she could not able to maintain herself and her two children. Therefore, The 2nd respondent filed a petition in H.M.O.P.No.83 of 2014 under section 24(b) of Hindu Marriage Act and the same is pending for adjudication. The 1st accused also filed a petition for seeking



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divorce in H.M.O.P.No.79 of 2014 on the file of the Principal Sub Court, Nagapattinam. The same was dismissed for default. Thereafter, the 1st accused got married the 2nd accused with the help of 3rd and 4th accused. Therefore, even according to the 2nd respondent, the petitioners in Crl.O.P.No.25904 of 2018 helped the 1st accused to get married the 2nd accused. However, there is absolutely no evidence to show that the 1st accused got married, except the statement of the 2nd respondent. There is no evidence to show that the 2nd accused had knowledge about the existence of first marriage between the first accused and the defacto-complainant/2nd respondent. Therefore, no evidence is made out as against the petitioners and the entire proceedings initiated by the 2nd respondent as against the petitioners are nothing but clear abuse of process of law and it is liable to be quashed.

6. Therefore, the proceedings in C.C.No.221 of 2018 on the file of the learned Judicial Magistrate No.1, Mayiladuthurai is quashed only against these petitioners i.e, Accused No.2 to 4 and these Criminal Original Petitions are allowed. The Trial Court is directed to proceed



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with the trial as against the 1st accused and complete the same within a period of six months from the date of receipt of copy of this order.

Consequently, connected miscellaneous petition is closed.

24.11.2023

Internet: Yes

Index: Yes/No

Speaking/Non-speaking order
gvn

To

- 1) The Judicial Magistrate No.1,
Mayiladuthurai
- 2) The Inspector of Police,
All Women Police Station,
Mayiladuthurai, Nagapattinam District.
- 3) The Public Prosecutor,
High Court Madras.



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G.K.ILANTHIRAIYAN, J.

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and
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