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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 15/06/2023

CORAM

The Hon'ble Mr.Justice **G.ILANGO VAN**

Cr1.OP(MD)No.7671 of 2023
and
Cr1.MP(MD)No.6692 of 2023

1.Shahul Hameed
2.Julaiha Beevi
3.Mohamed Thalha

: Petitioners/A2 to A5

Vs.

1.State rep. by
The Inspector of Police,
All Women Police Station,
Kumbakonam,
Thanjavur District.
(Crime No.36 of 2022)

: R1/Complainant

2.Thajinisha

: R2/De-facto Complainant

PRAYER:- Criminal Original Petition has been filed under section 482 of the Criminal Procedure Code, to call for the records pertaining to the FIR in Crime No.36 of 2022 on the file of the Inspector of Police, All Women Police Station, Kumbakonam, Thanjavur District and quash the same as illegal in so far as the petitioners are concerned and pass such further or other orders.



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For Petitioners : Mr.C.Suresh Kannan

For 1st Respondent : Mr.B.Nambiselvan
Additional Public Prosecutor

O R D E R

This criminal original petition has been filed seeking quashment of the FIR in Crime No.36 of 2022 on the file of the Inspector of Police, All Women Police Station, Kumbakonam, Thanjavur District.

2.The case of the prosecution in brief:-

The de-facto complainant namely the second respondent herein lodged a complaint stating that she was married to A1, on 24/09/2009 as per the religious customary rites. Three children were born to them. A2 is living with his son and separated from her husband. A1 wanted to marry A2 as the second wife. So, pressure was made upon her to give consent for divorce. When she was refused, she was ill-treated and harassed. When that was intimated to A3 to A5, they also supported A1. Instead of warning A1, they abused her. Later, it came to know that on 14/01/2021, A1 conducted second marriage. When that was enquired, she was criminally intimidated. A complaint



was given to Jamath and before the Jamath, A1 undertook that he will continue the material life with both the wives. Upon the complaint given by the de-facto complainant, a case in Crime No.36 of 2022 was registered for the offences under sections 147, 294(b), 323, 324, 427, 494, 495 and 506(ii) IPC and section 4 of the Tamil Nadu Prohibition of Harassment of Women Act, 2002.

3. Seeking quashment of the same, this petition has been filed by A2 to A5 stating that even as per the allegation made in the FIR, no offences under sections 147, 294(b), 323, 324, 427, 494, 495 and 506(ii) IPC and section 4 of the Tamil Nadu Prohibition of Harassment of Women Act, 2002 are not attracted against them.

4. Heard both sides.

5. It is a case of matrimonial issue and the allegation of performance of second marriage.

6. The marriage between A1 and the de-facto complainant is not denied. It is also not denied that because of the marriage, they had three children. When



7. The learned counsel appearing for the petitioners would submit that their religion does not prohibit performing second marriage. So, section 494 IPC, cannot be alleged against A1; When the preliminary allegation against A1 itself is not maintainable, further allegation that these petitioners supported A1 will not stand. Since A1 is not before this court, I am not going to those issues now.

8. The learned Additional Public Prosecutor would submit that the investigation has been completed and now, the final report is also made ready as early as on 29/03/2023, but it was not presented before the concerned court so far.

9. Why the above said final report is kept pending is not known. There is no stay order passed by this court. Even reading of the final report will show that that only A2 to A5 arranged second marriage for A1, on knowing that A1 already married the de-facto complainant, A2 married him.



10.It is also seen that both of them are living in the very same street. No doubt that during the course of investigation, it was found that no injury was caused to the de-facto complainant. So the offence was altered to sections 147, 294(b), 427, 494, 495, 352 and 506(ii) IPC and section 4 of the Tamil Nadu Prohibition of Harassment of Women Act, 2002.

11.Since already final report is made ready after completing the investigation, quashmet of the FIR is not permissible. More-over, in the light of the above said allegation that has been made against the petitioners, there shall be a direction to the first respondent herein to file a final report before the concerned court immediately. The District Munsif-cum-Judicial Magistrate, Thiruvidadaimarudur is directed to process the final report within a stipulated time. If the petitioners are still aggrieved the contents of the final report, they can also work out their remedy through proper forum in the manner known to law. I absolutely find no reason to quash the proceedings, since it has become infructuous.



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12.In the result, this criminal original petitioner is **dismissed as infurcutous**. Consequently, connected Miscellaneous Petition is closed.

15/06/2023

Index:Yes/No

Internet:Yes/No

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To,

- 1.The Inspector of Police,
All Women Police Station,
Kumbakonam,
Thanjavur district.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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G.ILANGOVAN, J

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