



WEB COPY



Crl.O.P.No.2569 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.03.2024

CORAM:

THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

Crl.O.P.No.2569 of 2022
and Crl.M.P.Nos.1193 and 1194 of 2022

1. Dhandapani
2. Alamelu
3. Poonkothai
4. Murugaraj

... Petitioners

Vs.

1. State by
Inspector of Police,
AWPS- Villupuram Police Station,
Villupuram District.
(Crime No.19 of 2020)

2. Bhuvana

... Respondents

PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C., to call for the records and quash the proceedings concerned in **C.C.No.76** of 2021, on the file of learned Judicial Magistrate -II, Ulundhurpet, Villupuram District for the petitioners concerned.

For Petitioners	: Mr.B.Thiyagarajan
For R1	: Mr.S.Vinoth kumar Government Advocate (Crl.Side)
For R2	: Ms.Raji for Mr.S.Saravanakumar



Crl.O.P.No.2569 of 2022

WEB COPY

ORDER

This Criminal Original Petition has been filed to call for the records and quash the proceedings in [C.C.No.76](#) of 2021 on the file of learned Judicial Magistrate -II, Ulundhurpet, Villupuram District.

2. Heard the learned counsel for the petitioners, the learned Government Advocate (Crl.Side) appearing for the 1st respondent and the learned counsel for the second respondent.

3. When the matter is taken up for hearing, both parties along with their respective counsel have appeared before this Court. Further, A Joint memo of compromised entered between the 4th petitioner and the 2nd respondent and also produced the joint memo of compromise. As per the compromise memo, the petitioners have paid a sum 5,00,000/- demand draft and Rs.1,80,000/- through cheque totally Rs.6,80,000/- to the second respondent. Further, the 4th petitioner has agreed to transfer the name of the vehicle bearing Registration Number TN 32 BA 4888 to the



Crl.O.P.No.2569 of 2022

name of Anbazhagan or any other name. Both have agreed that they will not claim any money or any share or any property from each other in future.

4. Further, the grievance of the defacto complainant is that her Education certificates withhold by the 4th petitioner/husband and in-laws and the same was denied by the 4th petitioner stating that there is no educational certificate belongs to the defacto complainant viz., Bhuvana.

5. Considering the facts and circumstances of the case, this Court is directed the 1st respondent police to issue non-traceable certificate immediately about missing the educational certificates viz, SSLC, HSC, Birth Certificate, Provisional Certificate, Course Completion Certificate, Transfer cum Conduct Certificate, statement of Marks(CBCS), Transfer Certificate, of the defacto complainant. Based on the NOC, the defacto complainant is entitled to get copy of the original certificates from the concerned authorities and the Concerned authorities as well as the Revenue authorities also directed to comply the



CrI.O.P.No.2569 of 2022

WEB COPY

order passed by this Court in respect of issuing of Certificates belongs to her. Furthermore, as per the amicable settlement, the 2nd second respondent herein agreed to join the prayer of the petitioner for quashing the proceedings in C.C.No.76 of 2021 on the file of the learned Judicial Magistrate No.II, at Ulundhurpet which was transferred and renumbered as C.C.No.236 of 2023 on the file of the learned Judicial Magistrate, Thiruvannainallur.

6. Considering the above facts of the case, as well as the ratio laid down by the Hon'ble Supreme Court in the case of Shilpa Sailesh vs. Varun Sreenivasan reported in [(2023 SCC online SC 544)] is extracted hereunder:-

50. In view of the aforesaid discussion, we decide this reference by answering the questions framed in the following manner:

(i) The scope and ambit of power and jurisdiction of this Court under [Article 142\(1\)](#) of the Constitution of India.

This question as to the power and jurisdiction of this Court under [Article 142\(1\)](#) of the Constitution of India is answered in terms of paragraphs 8 to 13, inter alia, holding that this Court can depart from the procedure as well as the substantive laws, as long as the decision is exercised based on considerations of fundamental general and specific public policy. While deciding



Crl.O.P.No.2569 of 2022

whether to exercise discretion, this Court must consider the substantive provisions as enacted and not ignore the same, albeit this Court acts as a problem solver by balancing out equities between the conflicting claims. This power is to be exercised in a 'cause or matter'.

.....

(iii) Whether this Court can grant divorce in exercise of power under [Article 142\(1\)](#) of the Constitution of India when there is complete and irretrievable breakdown of marriage in spite of the other spouses opposing the prayer?

This question is also answered in the affirmative, inter alia, holding that this Court, in exercise of power under [Article 142\(1\)](#) of the Constitution of India, has the discretion to dissolve the marriage on the ground of its irretrievable breakdown. This discretionary power is to be exercised to do 'complete justice' to the parties, wherein this Court is satisfied that the facts established show that the marriage has completely failed and there is no possibility that the parties will cohabit together, and continuation of the formal legal relationship is unjustified. The Court, as a court of equity, is required to also balance the circumstances and the background in which the party opposing the dissolution is placed.

Further, there is no possibility of cohabitation by both parties.

Hence, the marriage between the 4th petitioner and the second respondent is declared as null and void. Further, the parties are directed to produce the copy of this order to the Court for closure of the case.

7. Considering the joint memo of compromise filed by both parties, this Criminal Original Petition stands allowed and the proceedings in C.C.No.236 of 2023 on the file of the learned Judicial



Crl.O.P.No.2569 of 2022

Magistrate, Thiruvannainallur, is quashed and the terms of joint memo of

T.V.THAMILSELVI, J.,

msrm

compromise has been filed in the typed set of papers along with this petition, shall form part and parcel of this order. Consequently, connected miscellaneous petitions are closed. No costs.

27.03.2024

Speaking / Non Speaking order

Neutral Citation : Yes/No

Index :Yes/No

msrm

To

1. The learned Judicial Magistrate, Thiruvannainallur,
2. The Inspector of Police,
AWPS- Villupuram Police Station,
Villupuram District.
3. The Public Prosecutor,
High Court,
Madras.

Crl.O.P.No.2569 of 2022
and Crl.M.P.Nos.1193 and 1194 of 2022
(1/2)