



Crl.O.P.No.9216 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.02.2024

CORAM:

THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

Crl.O.P.No.9216 of 2022
and
Crl.M.P.Nos.5375 & 5378 of 2022

1. Sornamugi
2. Periyammal Muthusami
3. Ramesh Muthusami
4. Priya Raja
5. Kamachi Dukaiyan
6. Dukaiyan Chinnasamy
7. Jayaraman Kandhasamy
8. Varatharasu Kandhasami
9. Periyammal Vardharasu
10. Saravanan
11. Vidhya S.

... Petitioners

Versus

1. State rep. by
Inspector of Police,
A.W.P.S., Kallakurichi,
Kallakurichi Dt.

2. Sailaja

... Respondents



Crl.O.P.No.9216 of 2022

WEB COPY

PRAYER : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records and quash the charge sheet in C.C. No.25 of 2021 pending on the file of Judicial Magistrate-I, Kallakurichi.

For Petitioners : Mr.S.Vinoth Kumar

For Respondents : Mr.S.Vinoth Kumar,
Govt. Advocate (Crl. Side) for R1

Mr.V.Gunasekar for R2

ORDER

This Criminal Original Petition has been filed seeking to quash the charge sheet in C.C. No. 25 of 2021 on the file of learned Judicial Magistrate-I, Kallakurichi.



WEB COPY

2. Heard both sides.

3. The petitioners are ranked as A2 to A12 in the F.I.R. in Crime No.23 of 2021 registered for the offence under Sec.498(A), 294(b), 494, 109 of I.P.C. and Sec.4 of Tamil Nadu Prohibition of Harassment of Women Act, 2002. Subsequently, the charge sheet has been filed and the same was taken on file in C.C.No.25 of 2021 on the file of Judicial Magistrate-I, Kallakurichi and the same is pending. Now, the petitioners have filed this petition praying to quash the said charge sheet.

4. The case of prosecution is that the defacto complainant is the 2nd respondent, who is wife of A1 viz., Thangeswaran. According to her, on 18.03.2017 she got married with A1 and she gave birth to a female child in the year of 2019. In the meanwhile, there was a matrimonial dispute between them and at the instigation of family members, they were reunion and a child was born. When she went to her parents house for delivery, after some time, she came to know that her husband got married



Crl.O.P.No.9216 of 2022

with 1st petitioner herein as second marriage and begotten a child also.

Therefore, she lodged a complaint. Based on that, F.I.R. was lodged in Crime No. 23 of 2021 and subsequently, final report was also filed.

5. The learned counsel for petitioners would submit that they have been falsely implicated in this case by the 1st respondent police as per the complaint given by the 2nd respondent/defacto complainant. In fact, there was a matrimonial dispute between A1 and 2nd respondent/defacto complainant. He would submit that all these petitioners are family members and they are no way related with the alleged dispute between them nor they concerned with second marriage. Hence, he prayed to quash the proceedings initiated against them. In support of his contentions, he relied on the ratio laid down in the authority held by the ***High Court of Karnataka in Crl.Petn. No. 7931 of 2022 C/W Crl.Petn. No.7825 of 2022***, in the case of ***Srinivasa Sagar and others vs. State***, wherein in para 9 it has been held as follows :-

“9. A perusal of Sections 494, 495 and 496 of I.P.C. makes it clear that those offences can be pursued by a



spouse against an erring spouse and the other members of the family or members of the extended family cannot be prosecuted for the offences punishable under Sec.494, 495 or 496 of I.P.C. Therefore, pursuing the case against the other accused for the offences punishable under Sec.494, 495 and 496 of I.P.C. is unwarranted.....”

6. Records perused. Admittedly, on seeing entire facts, it reveals that the marriage between A1 and 2nd respondent/defacto complainant is still in force and as on date, the 1st accused married with the 1st petitioner herein and begotten a child, however, there was no divorce obtained by A1. All the family members having known very well about the facts as per the case of prosecution. So, on seeing the facts as well as on seeing the conduct of petitioners as well as with regard to the fact of marriage of A1 along with 1st petitioner/A2, it needs detailed investigation. Hence, I do not find any irregularity in the charge sheet initiated by the 1st respondent police and this Court is not inclined to quash the proceedings initiated against the petitioners. If at all, the family members plead innocence, they are at liberty to work out their remedy and raise all their



Crl.O.P.No.9216 of 2022

WEB COPY

defence before the trial court. Furthermore, the authority relied on by the petitioner's counsel in the ratio laid down by the **High Court of Karnataka in Crl.Petn. No. 7931 of 2022 C/W Crl.Petn. No.7825 of 2022**, in the case of **Srinivasa Sagar and others vs. State** is not applicable to the facts of instant case. Accordingly, this Criminal Original Petition is dismissed. Consequently, connected Criminal Miscellaneous Petitions are closed.

02.02.2024

Index: Yes/No
Internet: Yes/No
rpp

To

1. Inspector of Police,
A.W.P.S., Kallakurichi,
Kallakurichi Dt.
2. The Public Prosecutor,
High Court, Madras.



WEB COPY



Crl.O.P.No.9216 of 2022

T.V.THAMILSELVI, J.

rpp

CRL.O.P.No.9216 of 2022

02.02.2024