



Crl.RC.No.716 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 25.04.2024

CORAM:

THE HONOURABLE **MR. JUSTICE M.DHANDAPANI**

Crl.RC.No.716 of 2024

C.V.Dayanandh

...Petitioner

Vs.

L.Mahalakshmi
...Respondent

Petition filed under Section 397 r/w 401 of Code of Criminal Procedure to set aside the order in Crl.M.P.No.1285 of 2022 in C.C.No.50 of 2020 dated 01.12.2023 passed by the Additional Mahila Court, Egmore, Chennai.

For Petitioner : Mr.P.Selvaraj

ORDER

This Criminal Revision case has been filed seeking quashment of the order passed in Crl.M.P.No.1285 of 2022 in C.C.No.50 of 2020 dated 01.12.2023 by the Additional Mahila Court, Egmore, Chennai.



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2. The case of the petitioner is that, alleging that the marriage between the petitioner and the respondent was solemnised in the year 2014 and out of the wedlock, they were blessed with a male child in the year 2015, however, the petitioner deserted the respondent and refused to maintain the respondent and the minor child, the respondent filed a petition under Section 125 Cr.P.C. in MC.No.667 of 2019, claiming a maintenance of Rs.40,000/- in her favour and Rs.60,000/- in favour of her minor child. Pending the same, she also filed a complaint under Section 200 Cr.P.C. as against the petitioner for the offence under Section 494 of IPC in CC.No.50 of 2020 before the Additional Mahila Court, Egmore, alleging that, the petitioner married one Deepa Sridharan on 27.02.2017 and the same was registered before the Marriage Registrar at Kodambakkam on 28.02.2017. In the above said complaint, the petitioner filed a petition under Section 245 of Cr.P.C. seeking to discharge the petitioner from the above said charges levelled against him. However, the trial court had mechanically dismissed the said discharge petition, vide impugned order. Challenging the same, the petitioner had preferred this Revision.



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3. Learned counsel for the petitioner submitted that, alleging that marriage took place in between the petitioner and one Deepa Sridharan, the respondent produced two marriage certificates, however, both the certificates were found to be bogus and the claim of marriage was not substantiated by the respondent. Without considering the same, the trial court had taken cognizance and issued notice to the petitioner. Thereby, the petitioner filed discharge petition. It is pertinent to note that, there cannot be two marriage certificates for the very same marriage and both the certificates are cooked up one by the respondent for the purpose of implicating the petitioner for the above said crime. Further, it is only the respondent who deserted the petitioner and did not live with him. However, all these facts were not properly appreciated by the court below. Accordingly, he prayed for appropriate orders,

4. Heard learned counsel for the petitioner and perused the materials available on record.

5. A perusal of the material documents placed on record reveals that



though the petitioner claims that the marriage certificate in respect of the marriage alleged to have been contracted between the petitioner and one Deepa Sridharan is bogus, which is the basis on which the whole case is premised, however, it is to be pointed out that such facts have to be established during trial and it cannot be decided at the time of appreciating the discharge petition. It is for the petitioner to place relevant materials to disprove the certificate and as a matter of course, on the complaint that the documents are bogus, this Court cannot grant the benefit sought for by the accused.

6. It is to be pointed out that all the aforesaid issues, which have been canvassed before this Court are triable issues, which cannot be decided at this point of time and in view of the above, the trial court and dismissed the discharge petition filed by the petitioner, vide impugned order, in which this Court does not finds any fault with.

7. The case on hand squarely falls within the parameters enunciated by the Apex Court in the case of *State of Haryana - Vs - Bhajan Lal &*



Ors. (1992 SCC (CrI.) 426) wherein the Apex Court held as under :

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“102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extra-ordinary power under Article 226 or the inherent powers under Section 482 of the Code of Criminal Procedure, which we have extracted illustration wherein such power could be exercised either to prevent abuse of the process of any Court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an to give an exhaustive list of myriad kinds of cases wherein such power should be exercised:

(1) where the allegations made in the First Information Report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused;

(2) where the allegations in the First Information Report and other materials, if any, accompanying the F.I.R. do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code;

(3) where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused;

(4) where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code;

(5) where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused;

(6) where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party;

(7) where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior



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motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.”

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8. None of the ingredients pointed out in the aforesaid case are attracted to the case on hand and, therefore, this Court cannot quash the case at this point of time.

9. For the reasons aforesaid, this Criminal revision case stands dismissed.

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Index : Yes/No
Speaking order : Yes/No
NCC : Yes/No

To

The Additional Mahila Court,
Egmore, Chennai.



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M.DHANDAPANI, J.

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