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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.07.2024

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THE HON'BLE **MR.JUSTICE M.DHANDAPANI**

Crl.RC.No.998 of 2023
and Crl.MP.No.8037 of 2023

1. Nagaraj
2. Rajamani
3. Jayalakshmi
4. Mohan kumar

... Petitioners

-Vs-

1.The Inspector of Police,
AWPS Thidiyalur Police Station,
CC.No.833 of 2022

2. Nandhini
(R2 is impleaded as per order dated
19.07.2023 in Crl.MP.No.10216/2023
in Crl.RC.No.998 of 2022)

... Respondents

Prayer: Criminal revision is filed under Sections 397 and 401 of the Criminal Procedure Code, to set aside the order in CMP. No.8549 of 2023 vide dated 08.03.2023 on the file of the learned Additional Mahila Court, Coimbatore.

For petitioner : Mr.G.R.Deepak

For Respondent : Mr.A.Gopinath,
Government Advocate
(Crl. Side) R1
R2 – No appearance

**ORDER**

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No.8549 of 2023 vide dated 08.03.2023 on the file of the learned Additional Mahila Court, Coimbatore.

2. The case of the prosecution is that the first petitioner is the father, second petitioner is the mother, third petitioner is the sister, and the 4th petitioner is the brother in law of the first accused Meignanam. The said Meignanam without getting divorce from his wife, had married one Mahalakshmi and out of the wedlock a female child was born, for which, one Nandhini/defacto complainant has lodged a complaint against her husband Meignanam before the first respondent and FIR has also registered in Cr.No.15/2021. Subsequently, the respondent police filed a charge sheet against the Meignanam on 25.09.2021 and the same was taken on file in CC.No.833 of 2022 for the offences under Section 498A, 506(i) IPC. During pendency of the trial, the defacto complainant has filed a petition before the trial Court to add the petitioners herein as accused in this case and the same was allowed. Aggrieved over the same, the petitioners has filed the present revision before this Court.



3. Heard both sides and perused the materials available on record.

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4. At the outset, the learned counsel for the revision petitioners would submit that absolutely these petitioners were not involved in the marriage between the first accused and one Mahalakshmi, since they are living separately in a separate house. Absolutely, there was no possibility for these petitioners to join with the first accused, cause assault and demand dowry to the defacto complainant. Not only the Investigation Officer and also the Court should be more careful while scrutinising the evidence in the form of statement while in-laws are implicated. The first and second petitioners are the parents of the first accused and they are living separately in their own cost, how they could be implicated for participation of the marriage. Also the 3rd petitioner was already married to the 4th petitioner and living separately. In this facts and circumstance of this case, implicating the petitioners as accused is not sustainable. Further the learned counsel for the revision petitioner would submit that mere bald allegation is not enough to add additional accused. There must be cogent and convincing reason and circumstances must be brought on record. Here, except the allegation made in the complaint, no other circumstances, worth considering is brought on record during the course of trial by the defacto complainant.



5. Per contra, the learned Government Advocate submitted that the first accused Meignanam without getting divorce from his wife, married one Mahalakshmi. Out of the said wedlock, a female child was born. To substantiate the claim, the respondent police has produced the birth certificate of the child and first accused has also not objected for the same. The trial Court has rightly allowed the petition and implicated the petitioners as accused, which does not warrant any interference.

6. At this juncture only, the opinion of honourable Supreme Court in Preethi Kupta's case got to be complied. Except the bald statement of P.W.1 to 3 with regard to the alleged role against all these petitioners, no other material is brought on record during the course of trial. So, implicating these petitioners are made by the P.W.1 to P.W.3 with ulterior motive. The criminal prosecution could not be made as a weapon of oppression or vindication.

7. This Court is of the considered view that the substantial evidence is not brought on record to add these petitioners as additional accused. If the trial Court is of the view that these petitioners to be tried, the judgment of



honourable Supreme Court in [Sukhpal Singh Khaira VS. The State of Punjab](#) in

Criminal Appeal No.885 of 2019 dated 05.12.2022, must be followed, if fresh material is brought on record.

8. Initially the defacto complainant has lodged a complaint as against her husband for the offence under Section 498 A and 506(i) of IPC. Subsequently, the respondent police filed a petition under Section 319 of Cr.P.C to add the petitioners as accused in this case as if the petitioners have performed and participated the marriage of the first accused with one Mahalakshmi. In order to prove the same, the respondent produced a birth certificate of the female child. Before the trial Court, except the birth certificate, no other evidence was filed or witness was examined to prove that the petitioners have performed and participated in the marriage. Even assumed that they have participated in the second marriage of the first accused, it does not come under the purview of Sections 498A and 506(i) of IPC. Hence, implicating the petitioners as accused is not sustainable and the same has to be quashed.

9. Such being the position, this revision is liable to be allowed and the same is allowed. The Order in C.M.P.No.8549 of 2023 dated 08.03.2022 is set-



aside with the above observation. Consequently, the connected Miscellaneous
Petition is closed.

12.07.2024

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Index : Yes/No

Internet: Yes/No

Speaking Order : Yes/No

To

1. The The Inspector of Police,
F-5, Pathirvedu Police Station,
Tiruvallur District.

2. The District Munsif cum Judicial Magistrate Court,
Gummidipoondi.

2. The Public Prosecutor,
High Court of Madras.



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M.DHANDAPANI,J.

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