



WEB COPY



CrI.R.C.No.624 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.04.2024

CORAM:

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

CrI.R.C.No.624 of 2021
and
CrI.M.P.No.10354 of 2021

1.Achuthan
2.Santha

... Petitioners

-Vs-

1.Nivetha
2.Rangapriyan
3.Rajapriya

... Respondents

Prayer : Criminal Revision Case filed under Section 397 r/w 397 of Code of Criminal Procedure, praying to call for the records of the order passed in the Criminal Appeal No.26 of 2019 dated 06.03.2020 on the file of II Additional Sessions Judge, Puducherry against Criminal M.P.No.2590 of 2019 in D.V.C.No.4 of 2018 on 14.10.2019 on the file of learned Chief Judicial Magistrate, Puducherry and set aside the same.

For Petitioners : Mr.M.Rajeswaran
for M/s. Nathan and Associates



Crl.R.C.No.624 of 2021

ORDER

WEB COPY

This Criminal Revision Case has been filed by the petitioner seeking to set aside the order passed in Criminal Appeal No.26 of 2019 dated 06.03.2020 on the file of learned II Additional Sessions Judge, Puducherry against Criminal M.P.No.2590 of 2019 in D.V.C.No.4 of 2018 on 14.10.2019 on the file of learned Chief Judicial Magistrate, Puducherry.

2. The case of the petitioner is that, 1st respondent is the wife of the 2nd respondent and daughter-in-law of the petitioners. The 1st respondent filed a petition u/s 12(2) of Domestic Violence Act, 2005 in D.V.C.No.4 of 2018 before the Chief Judicial Magistrate, Puducherry, in which, she had also filed a petition u/s 17, 19, 23 and 28(2) of Protection of Women from Domestic Violence Act, 2005 in Crl.M.P.No.2590 of 2019 in D.V.C.No.4 of 2018 and the trial court passed the residential order dated 14.10.2019 granting residential status to the 1st respondent along with the petitioners in the matrimonial house. Aggrieved by the said order, the petitioners have preferred an appeal in Criminal Appeal No.26 of 2019 and the same was dismissed by the trial court vide impugned order dated 06.03.2020. Aggrieved by the same, the present revision has been filed by the



Crl.R.C.No.624 of 2021

petitioners.

WEB COPY

3. The learned counsel appearing for the petitioner submitted that, without obtaining divorce from the 2nd respondent, the 1st respondent got married with one Rajesh on 20.08.2021 and produced copy of registration of said marriage certificate before this Court in Crl.O.P.No.15663 of 2022, which is the quash petition filed by the 2nd respondent to quash C.C.No.57 of 2017 in Crime No.5 of 2016, which was registered at the instances of the 1st respondent. Therefore, the impugned order passed by the trial court is wholly unsustainable and the same is liable to set aside.

4. Though notice was served on the 1st respondent, however, no one appeared on behalf of the 1st respondent. Considering the pendency of this revision, this Court is inclined to dispose of this revision based on the materials available on record.

5. This Court by its order dated 26.02.2024 made in Crl.O.P.No.15663 of 2022 has passed the following order :-

“4. The learned Government Advocate (Criminal Side)



WEB COPY



Crl.R.C.No.624 of 2021

submitted that based on the complaint given by the defacto complainant, the case was registered in Crime No.5 of 2016. He further submitted that the investigation has been completed and charge sheet has also been filed in C.C.No.57 of 2017 before the District Munsif cum Judicial Magistrate, Porttonova. He further submitted that the enquiry was conducted and found that the second respondent got married with one Rajesh on 20.08.2021 and produced copy of registration of said marriage certificate.

5. On a perusal of records, it reveals that the divorce petition was filed by the second respondent and the same was not been proceeded. Further, the petitioner has produced the photographs it shows that the second respondent has married with the said Rajesh. Therefore, the second respondent has suppressed the entire facts and without obtaining divorce from the petitioner, she got married with another person. Hence, the complaint was given by the second respondent/defacto complainant is false one. This Court is inclined to quash the proceedings in C.C.No.57 of 2017 on the file of the District Munsif cum Judicial Magistrate, Porttonova.

6. In the result, this Criminal Original Petition is allowed. Consequently, connected miscellaneous petitions are closed. No costs.”

6. Considering the fact that without obtaining divorce from the 2nd



Crl.R.C.No.624 of 2021

respondent, the 1st respondent got married with another person and the said fact was recorded by this Court in the above order, this Court is inclined to quash the impugned order passed by the trial court.

7. Accordingly, this Criminal Revision Case is allowed and the order passed in Criminal Appeal No.26 of 2019 dated 06.03.2020 on the file of learned II Additional Sessions Judge, Puducherry against Criminal M.P.No.2590 of 2019 in D.V.C.No.4 of 2018 on 14.10.2019 on the file of learned Chief Judicial Magistrate, Puducherry is set aside. Consequently, connected criminal miscellaneous petition is closed.

24.04.2024

Index : Yes/No
Speaking order / Non-speaking order
NCC : Yes/No
sp

To

- 1.The II Additional Sessions Judge, Puducherry.
- 2.The Chief Judicial Magistrate, Puducherry.
- 3.The Public Prosecutor, High Court of Madras, Chennai.



WEB COPY



CrI.R.C.No.624 of 2021

M.DHANDAPANI, J.

sp

CrI.R.C.No.624 of 2021

24.04.2024