



Crl.O.P.No.22630 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.03.2024

CORAM:

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

Crl.O.P.No.22630 of 2022

and

Crl.M.P.No.14519 of 2022

1. Nithya
2. Ravi
3. Nirmala

... Petitioners

Versus

1. The State of Tamil Nadu,
rep. by its Inspector of Police,
AWPS, Sriperumbudur,
Kancheepuram.

2. Surya

... Respondents

PRAYER : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records pertaining to the impugned charge sheet filed in C.C.No. 299 of 2017 pending on the file of the Judicial Magistrate Court, Sriperumbudur and quash the same in so far as



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the petitioners/Accused Nos.2 to 4 are concerned as illegal, arbitrary, abuse of process and oppressive.

For Petitioners : Mr.R.Veeramani
For Respondents : Mr.S.Vinoth Kumar,
Govt. Advocate (Crl. Side) for R1
Mr.A.Saranraj for R2

ORDER

This Criminal Original Petition has been filed seeking to quash the charge sheet in C.C. No. 299 of 2017 on the file of Judicial Magistrate, Sriperumbudur.

2. Heard both sides.

3. Totally, there are four accused involved in this case. The 1st accused is the husband of 2nd respondent/defacto complainant and 1st petitioner/A2 is second wife of A1 and 3rd and 4th petitioners/A3 and A4 are parents of 1st petitioner/A2. They are ranked as accused in the F.I.R. in



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Crime No.1 of 2017 registered for the offence under Sec.498(A), 494, 323, 506(1), 109 of I.P.C. and Sec.4 of Indecent Representation of Women Act, 1986, Subsequently, the charge sheet has been filed and the same was taken on file in C.C.No.299 of 2017 on the file of Judicial Magistrate, Sriperumbudur and the same is pending. According to defacto complainant, on 22.08.2007, she got married with A1 and begotten two sons and thereafter, in the year of 2014, while he was running a travel business at Padappai, he had illegal intimacy with 1st petitioner/A2 and got married with her on 02.02.2015. After that, the 2nd respondent/defacto complainant was harassed by 1st petitioner/A2 along with her parents. Therefore, she gave a complaint. After investigation, the charge sheet was filed for an offence under Sec. 498(A),494, 323, 506(1), 109 of I.P.C. and Sec.4 of Indecent Representation of Women Act, 1986. Challenging the said proceedings, the petitioners/A2 to A4 approached this court praying to quash the proceedings initiated against them.

4. The learned counsel for petitioners would submit that as a computer operator, the 1st petitioner was employed under A1, who is



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running a travel agency at Padappai and he claimed himself as a bachelor and developed some intimacy with the 1st petitioner. So, she fell in love with him and out of physical contact, she was pregnant and except no other choice her parents also arranged marriage as per the Indian Christian Marriage Act. Thereafter, she gave birth to a male child, since at the time of marriage itself, she was in family way. After the marriage, the 1st petitioner came to know that A1 already got married with the 2nd respondent/defacto complainant, but this fact was not aware to her earlier. Thereafter, when she enquired about the same, A1 harassed the 1st petitioner. Therefore, she approached the court and filed a divorce petition in F.C.I.D.O.P.No. 02 of 2023 as per Sec.19(4) of the Divorce Act before the Family Court, Chenglepet praying to dissolve the marriage as null and void as former wife of her husband was alive at the time of marriage and the first marriage of her husband was in force, but the same was suppressed by him. A1 appeared through counsel, but he remained exparte. Thereafter, the decree of divorce granted by the court below by dissolving marriage of the 1st petitioner with A1 on 21.08.2023 after this F.I.R. To that effect, the copy of



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the judgment is produced.

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5. Furthermore, the learned counsel for petitioners would submit that 2nd and 3rd petitioners are parents of 1st petitioner/A2 and they never caused any interference with the life of 2nd respondent with A1, however, since the 1st petitioner/A2 was pregnant before the marriage, without any choice, her parents have arranged the marriage with A1, except that they have not played any mischievous with the life of 2nd respondent/defacto complainant. Hence, all the petitioners prayed to quash the proceedings as they were not aware of earlier marriage with the 2nd respondent/defacto complainant. Further, the learned counsel would also submit that now A1 is living with 2nd respondent/defacto complainant.

6. The learned counsel for 2nd respondent appeared in person and submitted that she is living with two sons and because of the interference of 1st petitioner/A2 and her parents, her family life was disturbed. Further, she would also submit that A1 abandoned her and she is living with her two



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sons and maintaining her child by doing tailoring work. This fact was strongly denied by the 1st petitioner stating that now A1 is living with 2nd respondent/defacto complainant.

7. Today, when the matter taken up for hearing, both the 1st petitioner and the 2nd respondent/defacto complainant appeared in person before this court along with their counsels, but A1 has not appeared today. On the side of prosecution, it was replied that A1 has undergone surgery and admitted in the Government hospital, Chennai. But, denying the said contention, learned counsel for petitioner would submit that on 10.03.2024 the 2nd respondent/defacto complainant along with A1 and her sons doing prayer in the church and to that effect, prayer made in the public church was published in the social media and that video footage was also produced. On perusal of video footage, it was found that the 2nd respondent/defacto complainant conducting prayer along with A1 and her sons, but she also admits that she is doing prayer along with her husband. So, the fact reveals that A1 is living with 2nd respondent/defacto complainant, on the other hand, the 1st petitioner, who claimed herself as second wife, due to unavoidable circumstances, now she got divorce with A1 and living with



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her sons at her parents house.
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8. On seeing entire facts, the conduct of A1 shows that by suppressing the marriage with 2nd respondent/defacto complainant, he developed illicit intimacy with 1st petitioner/A2 by giving false promise and now, they got separated through court of law. Therefore, there is no prima facie material against the 1st petitioner that with malafide intention, she knowingly well about the first marriage of A1, 1st petitioner got married with A1 and also there is no prima facie material that 2nd and 3rd petitioners abetted for the second marriage. Therefore, all the facts prima facie clearly proves that the prior to the marriage conducted with the 1st petitioner, she did not aware of his first marriage and as on date, the 1st petitioner now got an order in F.C.I.D.O.P.No. 02 of 2023 dissolving of her marriage with A1 as null and void. Furthermore, the video footage produced on the side of petitioner reveals that A1 is living with 2nd respondent/defacto complainant along with his children. Therefore, I do not find any merit in the charge sheet initiated against the petitioners and the



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same is liable to be quashed. Accordingly, this Criminal Original Petition is allowed and the proceedings initiated against the petitioners in a charge sheet in C.C.No.299 of 2017 on the file of Judicial Magistrate, Sriperumbudur is quashed. Consequently, connected Criminal Miscellaneous Petition is closed.

22.03.2024

Index: Yes/No

Internet: Yes/No

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To

1. Inspector of Police,
AWPS, Sriperumbudur,
Kancheepuram.
2. The Public Prosecutor,
High Court, Madras.



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T.V.THAMILSELVI, J.

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