



WEB COPY



Crl.O.P.No.19701 of 2023

In the High Court of Judicature at Madras

Dated : 27.2.2024

Coram :

The Honourable Mr.Justice N.ANAND VENKATESH

Criminal Original Petition No.19701 of 2023
& Crl.M.P.No.13307 of 2023

G.Ramamoorthy

...Petitioner

Vs

1.The Inspector of Police,
All Women Police Station,
Tiruvannamalai.

2.R.Amsaveni (a) Amudha

...Respondents

PETITION under Section 482 of the Criminal Procedure Code
praying to call for the records relating to the first information report
dated 27.3.2023 in Crime No.6 of 2023 on the file of the respondent
police and quash the same.

For Petitioner	:	Mr.G.Mohan
For R1	:	Mr.A.Gopinath, GA (Crl.Side)
For R2	:	Mr.A.Kamal

ORDER

This is a petition filed by the petitioner seeking to quash the
first information report that has been registered in Crime No.6 of
2023 pending investigation on the file of the first respondent.



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2. The second respondent gave a complaint before the first respondent to the effect that she married the petitioner in the year 1990 and that they have got a son through the marriage. She alleged that the petitioner once again married another lady without the first marriage being dissolved in the manner known to law. Based on this complaint, a first information report came to be registered by the first respondent for the offence under Section 494 of the Indian Penal Code (IPC).

3. The above first information report is put to challenge by the petitioner in this petition only on the ground that the first respondent does not have the jurisdiction to register a first information report and conduct the investigation in view of the bar under Section 198 of the Criminal Procedure Code (Cr.P.C.).

4. Heard the learned counsel for the petitioner, the learned Government Advocate (Crl.Side) appearing for the first respondent and the learned counsel appearing for the second respondent.

5. The main allegation that has been made against the petitioner is that he had contracted a second marriage during the subsistence of the first marriage with the second respondent and



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hence, he committed an offence under Section 494 of the IPC. Section 198 of the Cr.P.C. makes it abundantly clear that no court can take cognizance of an offence punishable under Chapter XX of the IPC except upon a complaint made by a person aggrieved. Section 494 of the IPC falls under this Chapter and therefore, the only manner, in which, the grievance can be agitated, is by filing a private complaint before the concerned jurisdictional court. If a first information report is registered, it will only result in filing of the report under Section 173(2) of the Cr.P.C. and the same cannot be taken cognizance by the concerned court in view of the bar under Section 198 of the Cr.P.C. On the above technical ground, the impugned first information report registered in Crime No.6 of 2023 is liable to be interfered by this Court.

6. Accordingly, the first information report filed in Crime No.6 of 2023 on the file of the first respondent is hereby quashed. However, it is made clear that by quashing the first information report in Crime No. 6 of 2023, this Court is not giving a good conduct certificate to the petitioner. The fact remains that departmental proceedings have been initiated against the petitioner and he was suspended mainly on the ground that he contracted a second marriage during the subsistence of the first marriage with the second



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respondent. The quashing of the first information report will not efface the alleged offence committed by the petitioner. It is always left open to the second respondent to file a private complaint against the petitioner for the alleged offence under Section 494 of the IPC before the concerned jurisdictional court. At the risk of repetition, it is made clear that the quashing of the first information report by this Court will not, in any way, take away the alleged offence committed by the petitioner and the only change is that the mode of prosecuting the petitioner is now shifted from the police to a private complaint to be initiated by the second respondent before the competent court.

7. The above criminal original petition is disposed of in the above terms. Consequently, the connected Crl.M.P. is closed.

27.2.2024

To

1.The Inspector of Police,
All Women Police Station,
Tiruvannamalai.

2.The Public Prosecutor,
High Court, Madras.

RS



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N.ANAND VENKATESH,J

RS

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