



W.P(MD).No.9926 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved on : 04.04.2024
Pronounced on : 26.06.2024

CORAM

THE HONOURABLE Ms.JUSTICE R.N.MANJULA

W.P(MD).No.9926 of 2023

and

WMP(MD)No.8736 of 2023

P.Muthuvel

... Petitioner

Vs.

1.The Revenue Divisional Officer,
O/o.The Revenue Divisional Officer,
Sivagangai District,
Sivagangai.

2.The Special Thasildar,
Forest Settlement Officer,
O/o.Forest Settlement Officer,
Sivagangai,
Sivagangai District.

3.Miss.Vidhya,
D/o.Chandrappan.

... Respondents

[R3 is *suo motu* impleaded vide Court Order dated 25.04.2023 in WP(MD)No.9926/2023 by GRSJ]

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Prayer: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, to call for the records relating to the impugned Charge Memorandum vide ந.க.அ2/6872/2021 நாள்: 13.06.2022 issued by the 1st respondent and quash the same.

For Petitioner : Mr.D.Shanmugaraja Sethupathi

For Respondents : Mr.M.Lingadurai
Special Government Pleader
for R1&R2

: Mr. J.Karthikeyan
for M/s.Gandhi Associates for R3

ORDER

This writ petition has been filed challenging the impugned Charge Memorandum vide ந.க.அ2/6872/2021 நாள்: 13.06.2022 issued by the 1st respondent.

2. Heard Mr.D.Shanmugaraja Sethupathi, learned counsel appearing for the petitioner, Mr.M.Lingadurai, learned Special Government Pleader appearing for the respondents 1 & 2 and Mr.J.Karthikeyan, learned counsel appearing for the 3rd respondent.



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3. The petitioner was appointed as Village Assistant and he married one Vidya on 31.08.2007 prior to his appointment. As the marital life between the petitioner and Vidhya was not peaceful, the petitioner has filed a petition for divorce in HMOP.No.185 of 2020 on the file of the Family Court, Sivagangai and the decree of divorce has been granted on 07.01.2021. Even though the order has been passed exparte, the petitioner's ex-wife Vidhya did not choose to file any application to set aside the same. But a false private complaint has been preferred against the petitioner and on which a case has been registered in Crime No.8 of 2013 on the file of All Women Police Station, Sivagangai for the offence under Section 498 A, 494 r/w 109 IPC. In the said complaint, it is alleged that the petitioner had married one Saralarani, who was arrayed as the 8th accused in the said complaint. On completion of the investigation, charge sheet has been filed against the petitioner and his parents alone by dropping the complaint as against the other accused. However, another charge sheet has also been filed by the investigating officer against all the accused and that has been taken on file in C.C.No.224 of 2015 on the file of the learned Judicial Magistrate No.I, Sivagangai. But the other



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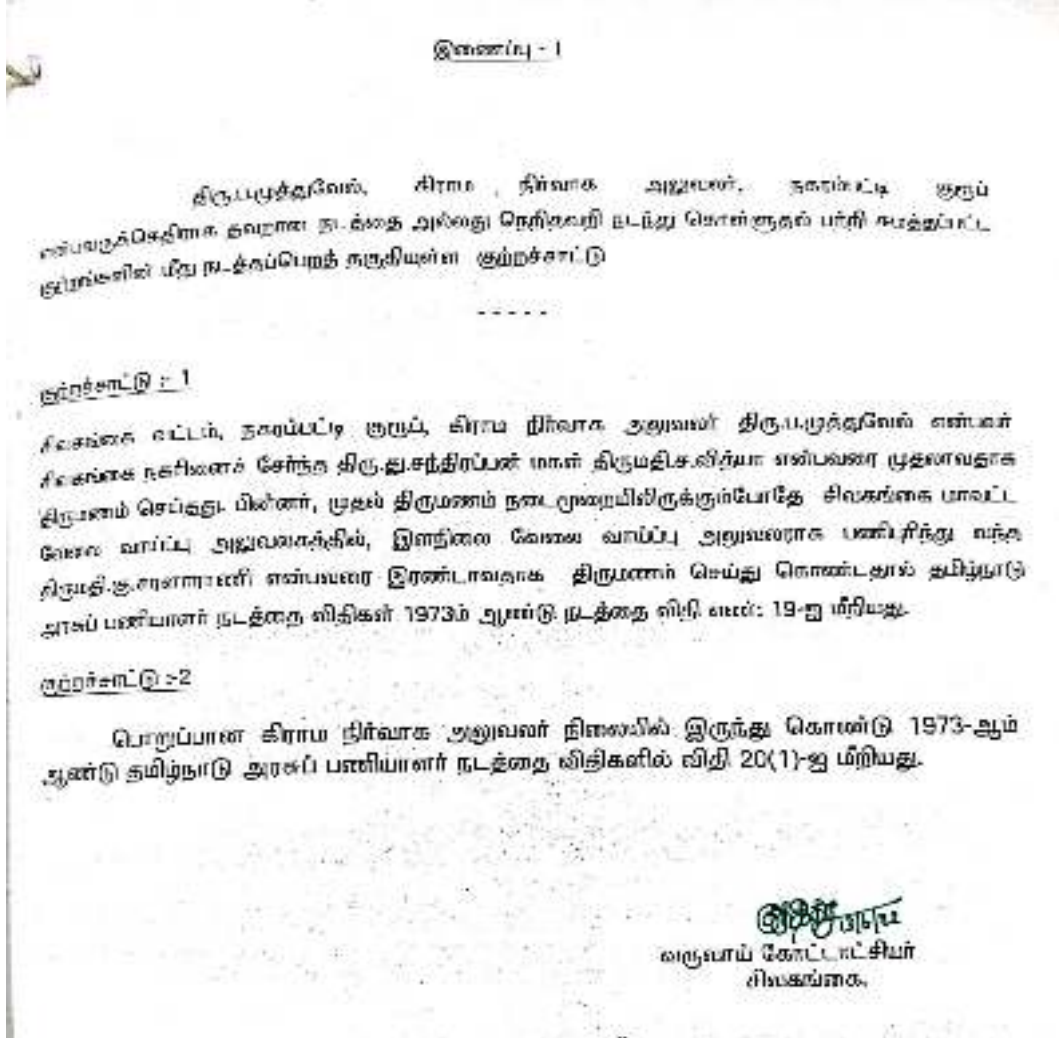
accused viz., A4 to A13 have got quashed the charge sheet filed against them by preferring a CrI.O.P.No.3146 of 2015 vide order dated 07.04.2016. The petitioner's parents who were arrayed as 2nd and 3rd accused have also filed quash petition in CrI.O.P.No.16207 of 2016 and the same was allowed by order dated 25.02.2020. The petitioner alone was facing the trial before the learned Judicial Magistrate (Mahila Court), Sivagangai and after full-fledged trial, the petitioner was acquitted of the charges under Section 498A IPC, by order dated 28.03.2023 in C.C.No.12 of 2020.

4. Despite that the first respondent has issued the impugned charge memo with vague and bald allegations stating that the petitioner had married one Saralarani during the subsistence of the first marriage with Vidhya. The charge memo does not have any more particulars. The charge memo has been issued at a belated stage with vague allegations even after the criminal case filed against the petitioner has been disposed of and the petitioner got acquitted.



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5. On perusal of the charge memo, it is seen that the petitioner was given with the following charges:



6. Even according to the submission of the learned counsel for the petitioner that the petitioner had married Vidhya at the first instance and the marriage between himself and Vidhya got dissolved by virtue of the



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decree of the Family Court dated 07.01.2021. On the very same set of allegations, a complaint has been given already against the petitioner by the said Vidhya for which the charge sheet has also been filed against the petitioner. Subsequently, the case ended in acquittal. It is pertinent to mention that the above criminal case is inclusive of the charges for the offence under Section 494 IPC (bigamy). The one and only reason which is held against the petitioner is that in the Service Records of Saralarani, she had described herself as wife of one Muthuvel, which according to the respondents would only denote the petitioner. However, the petitioner denies that he is not the said Muthuvel, whose name is mentioned in the Service Records of Saralarani.

7. Even for the sake of argument, if the petitioner had married Saralarani, the charge sheet ought to have mentioned about the minimum details about the date of marriage and how the charge memo is issued against the petitioner on the *prima facie* ground that he had committed the offence of 'bigamy' by marrying Saralarani during the subsistence of the marriage with Vidhya. As shown already, the charges are also very



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8. The one and only document that was relied on by the department is the Service Register details of the Saralarani wherein she was shown as wife of one Muthuvel. Those particulars alone would not serve as a conclusive proof for the marriage between the petitioner and Saralarani and that too during the subsistence of the petitioner's earlier marriage. If the petitioner had really married Saralarani, it could have been stated in the charge sheet about the details as to when exactly the petitioner had married Saralarani, in order to constitute a charge of bigamy. The charge memo has been issued against the petitioner on the basis of some vague allegations without any foundational facts which could not make out the



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charge and also the petitioner was acquitted from the criminal case for the very same charge under Section 494 IPC(bigamy). As the petitioner has been given with a clean chit, as above, I feel that there is some force in the argument advanced by the learned counsel for the petitioner.

9. In this regard, it is relevant to refer the judgment of the Supreme Court in ***Surath Chandra v. Chakrabarthy of West Bengal*** wherein it is held as under:

“5. The grounds on which it is proposed to take action have to be reduced to the form of a definite charge or charges which have to be communicated to the person charged together with a statement of the allegations on which each charge is based and any other circumstance which it is proposed to be taken into consideration in passing orders has also to be stated. This rule embodies a principle which is one of the basic contents of a reasonable or adequate opportunity for defending oneself. If a person is not told clearly and definitely what the allegations are on which the charges preferred against him are founded he cannot possibly, by projecting his own imagination, discover all the facts and circumstances



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*that may be in the contemplation of the authorities to
be established against him...."*

10. The above proposition is squarely applicable to the facts of the present case where the petitioner has been given with the charge memo without any basic details. If any disciplinary action is taken on the basis of those vague allegations that would only cause wastage of time and resource and no purpose will be achieved. Hence, I feel the charge memo is liable to be set aside.

11. In the result, this writ petition is **allowed**. The charge memo issued by the 1st respondent in ந.க.அ/2/6872/2021 dated 13.06.2022 is set aside. No Costs. Consequently, connected miscellaneous petition is closed.

26.06.2024

Index : Yes / No
Internet : Yes/No
NCC : Yes / No

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