



CrI.O.P.(MD)No.10047 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.12.2024

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

CrI.O.P.(MD)No.10047 of 2023

and

CrI.M.P(MD)Nos.8011 and 8012 of 2023

S.Kavitha

: Petitioner

Vs.

1.The State rep by
The Inspector of Police,
All Women Police Station,
Sivagangai, Sivagangai District.
(Crime No.29 of 2014)

2.Radha

: Respondents

PRAYER : Criminal Original Petition filed under Section 528 of BNSS, to call for the records relating to the final report in C.C.No.85 of 2019 on the file of the learned Additional Mahila Court, Sivagangai and quash the same as illegal so far as the petitioner is concerned.

For Petitioner	: Mr.K.S.Durai Pandian
For R1	: Mr.S.Ravi
	Additional Public Prosecutor
For R2	: No Appearance



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ORDER

This petition has been filed to quash the proceedings pending in C.C.No.85 of 2019 on the file of the Additional Mahila Court, Sivagangai.

2.Heard the learned counsel for the petitioner and the learned counsel for the first respondent. the second respondent has been served with notice and the name of the second respondent is also printed in the cause list and there is no appearance either in person or through counsel on behalf of the second respondent.

3.The second respondent filed a complaint stating that A1 had concealed his first marriage and had married the second respondent during the subsistence of the first marriage on 23.08.2009. There are totally 8 accused persons in this case and the petitioner has been arrayed as A4. The petitioner is the sister of A1.

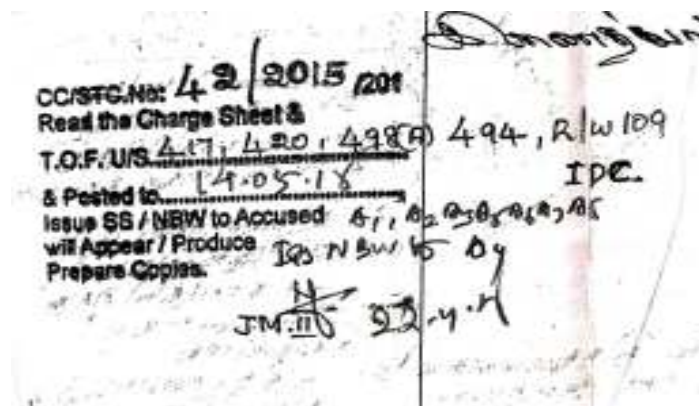
4.The main ground that was raised by the learned counsel for the petitioner is that the petitioner was not here at the time of the first marriage and she was in Dubai and the petitioner was not aware of the first marriage. The above ground raised by the learned counsel for the



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petitioner is purely factual in nature. It must be kept in mind that the petitioner is none other than the sister of A1. The petitioner is not some third party, who can claim that she was not aware of the first marriage of the first accused.

5.It is not necessary for this Court to go into the other issues that are raised in this petition, since the Court below has taken rubber stamp cognizance. For better appreciation, the rubber stamp cognizance taken by the trial Court is extracted hereunder:



6. This Court by relying upon the judgment of the Apex Court has repeatedly held that the process of taking cognizance is a judicial process which requires application of mind. A rubber stamp cognizance is no cognizance in the eye of law since what is being done is to put the seal in the complaint and fill-up the gaps. Such rubber stamp cognizance has been



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frowned upon by this Court. Useful reference can be made to the judgment of this Court in ***Shanmugam and others v. Inspector of Police, Ariyalur Police Station, Ariyalur and others***, reported in ***(2019) 3 MLJ (Crl.) 339***.

The Apex Court also dealt with this issue in ***S.K.Sinha, Chief Enforcement Officer v. Videocon International Ltd & Ors.***, reported in ***(2008) 1 SCC (Crl.) 471***.

7. In view of the above, the rubber stamp cognizance taken by the Court below is hereby set aside. The matter is remitted back to the file of the Additional Mahila Court, Sivagangai and the learned Judicial Magistrate shall apply his mind on the allegations made in the complaint and the materials relied upon and pass appropriate orders which must reflect the application of mind. This process shall be completed within a period of four weeks from the date of receipt of a copy of this order.

8. In the result, this Criminal Original Petition is allowed in the above terms. Consequently, connected miscellaneous petitions are closed.

18.12.2024

NCC : Yes/No
Index : Yes / No
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To

- 1.The Inspector of Police,
All Women Police Station,
Sivagangai, Sivagangai District.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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N.ANAND VENKATESH, J.

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