



CRL OP(MD). No.12397 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Date : 15.03.2024

CORAM

The Hon`ble Mr.Justice M. DHANDAPANI

CRL OP(MD) No.12397 of 2022

and

CrI.M.P(MD) Nos.7839 and 7840 of 2022

1.Swaminathan

2.Vasuki ... Petitioners/Accused Nos.5 & 6

Vs.

1.The Inspector of Police,
All Women Police Station,
Thiruvaiyaru,
Tanjore District.

...1st Respondent/Complainant

2.D.Meenatchi

...2nd Respondent/Defacto
Complainant

PRAYER :- Criminal Original Petition file under section 482 of Cr.P.C., to call for the records relating to C.C.No.85 of 2017 on the file of the learned Judicial Magistrate, Thiruvaiyaru, and quash the same as against the petitioners.

For Petitioner : Mr.Balakumaran.T

For R1 : Mr.P.Kotaichamy,
Government Advocate (Crl.Side)

For R2 : Mr.S.Deenadhayalan



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ORDER

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This petition has been filed to quash the C.C.No.85 of 2017 on the file of Judicial Magistrate, Thiruvaiyaru.

2. The case of the petitioners is that the petitioners are husband and wife. The accused Nos.2 to 4 are in-laws of the second respondent/defacto complainant. The first petitioner is the brother of the second accused. The marriage between the first accused and the second respondent was solemnized in the year 1998 and they have not blessed with the child. At the instigation of the petitioners and other accused persons, second marriage was performed to the first accused with the fourth accused on 29.06.2015, therefore, the second respondent lodged a complaint before the respondent police, which was registered in Crime No. 4 of 2015 for the offences under Sections 498(A), 494, 406, 506(i) of IPC and Section 4 of TNPWH Act. After completing the investigation, the respondent Police filed a Charge Sheet in C.C.No.85 of 2017 against the accused Nos.1 to 4, deleting the name of the petitioners/accused No.5 and 6. RCS notice was also served to the second respondent and hence, the second respondent filed a protest petition, in which, the Judicial



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Magistrate, Thiruvaiyaru, directed the first respondent to conduct further investigation and file a Final Report within two months therefrom, pursuant to which, the first respondent filed the impugned Charge Sheet in C.C.No.85 of 2017, dated 08.05.2017 for the offences punishable under Sections 498(A), 494, 406, 506(i) of IPC and Section 4 of TNPWH Act, including the petitioners along with A1 to A4. Challenging the same, the present petition has been filed.

3. The learned counsel for the petitioners would submit that since the first petitioner is the brother of the second accused and the second petitioner is the wife of the first petitioner, they have simply participated in the marriage performed between the first accused and the second respondent. Subsequent to their marriage, there was matrimonial dispute between them. Except pacifying the quarrel arose between the second respondent and the first accused, the petitioners have nothing to do with the matrimonial dispute. They have no knowledge about the second marriage performed to the first accused with the fourth accused. They are living separately. On earlier occasion, the respondent Police conducted an investigation and filed Charge Sheet, deleting the name of the



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petitioners, however, subsequently, he filed impugned Charge Sheet implicating the petitioners as accused. The second respondent has not produced any material to show participation of the petitioners in their matrimonial dispute. There is no specific allegation made against the petitioners in the complaint made by the defacto complainant. Hence, he prays for quashing of C.C.No.85 of 2017 pending on the file of the learned Judicial Magistrate, Thiruvaiyaru.

4. The learned Government Advocate (Crl.Side) would submit that a specific allegation has been made against the petitioners that with help of these petitioners and in order to harass the defacto complainant, the first accused got married with the fourth accused in the presence of the accused persons. Further, all those points raised by the learned counsel for the petitioners have to be agitated before the trial Court, since the offences are triable in nature and it cannot be tried under Section 482 of Cr.P.C. Hence, he prays to dismiss this petition.



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5. A perusal of the charge sheet reveals that the petitioners are husband and wife and the first petitioner is the brother of the 2nd accused. The allegation made against the petitioners is that the 2nd marriage between the first accused and fourth accused was performed in the presence of the accused persons including these petitioners. However, there is no specific overt-act made against the petitioners in order to attract the offences under Sections 498(A) 406, 506(i) of IPC and Section 4 of TNPWH Act. Further, there is no material produced by the defacto complainant to show the performance of second marriage of the first accused and participation of these petitioners in that second marriage. Hence, the offence under Section 494 of IPC is not at all attracted against the petitioners. Moreover, the petitioners were not residing along with the accused No.1 and his family and they are living separately. The 1st petitioner being the brother of the accused No.2 and the 2nd petitioner being the wife of the first petitioner, have been roped in this case. There is no material available before the trial Court in order to include the role of the petitioners in this case as accused persons. Hence, this Court is inclined to quash the proceedings in C.C.No.85 of 2017, pending on the file of the learned Judicial Magistrate, Thiruvaiyaru, insofar as the



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petitioners are concerned.

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6. In the result, this Criminal Original Petition is allowed and the proceedings in C.C.No.85 of 2017, pending on the file of the learned Judicial Magistrate, Thiruvaiyaru, is hereby quashed in respect of the petitioners alone. Consequently, connected Miscellaneous Petitions are closed.

15.03.2024

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TO

- 1.The learned Judicial Magistrate, Thiruvaiyaru.
- 2.The Inspector of Police,
All Women Police Station,
Thiruvaiyaru,
Tanjore District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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M.DHANDAPANI. J

Indu

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