



Crl.O.P.(MD)No.12476 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.03.2024

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Crl.O.P.(MD) No.12476 of 2022

and

Crl.M.P.(MD).No.7899 of 2022

1..Kaviya

2.Sivakumar

3.Ramajeyam

4.Keerthana

5.Mukilan @ Mukunthan

6.Lajapathy @ Kannan

7.K.Saravanan

8.Magudeeswaran

... Petitioner/Accused No.1 to 5, 7,

9 & 11

Vs.

1.The State rep by the

The Inspector of Police,
Samayanallur Police Station,
Madurai District.

Crime No.93 of 2021.

... Respondent/Complainant

2.Nagaselvam

... Respondent/Defacto Complainant

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records relating to the FIR in Crime No.93 of 2021 dated 26.02.2021 on the file of the first respondent police Station and quash the same.



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For petitioner : Mr.A.Joseph Jerry
For R1 : Mr.B.Nambiselvan
Additional Public Prosecutor
For R2 : Mr.R.Esakki Raja

ORDER

This petition has been filed to quash the FIR in Crime No.93 of 2021 on the file of the first respondent police.

2.The petitioners are arrayed as A1 to A5 , A9, A7 & A11 in Crime No.93 of 2021, which was registered for the offence punishable under Sections 419, 406 & 420 of IPC. Challenging the same, the present petition is filed.

3.The case of the prosecution is that the petitioner had searched for bride through 'Tamil Matrimony' website and other online websites. On seeing the same, one Mrs.Ramajeyam contacted one Arush, who is the husband of the defacto complainant's sister and informed her willingness to perform her daughter's marriage, namely, the first petitioner herein with the second respondent/defacto complainant. Believing the words of the petitioners 2 & 3 that they are the biological parents of the first



petitioner, the elders in the family of the second respondent/defacto complainant decided to perform the second respondent/defacto complainant's marriage with the first petitioner and the marriage was solemnized between the first petitioner/wife and the second respondent/defacto complainant on 05.03.2020. After marriage, the second respondent/defacto complainant and his family members came to know that the petitioners 2 & 3 are not the biological parents of the first petitioner, they are also the close relative of the first petitioner and the biological parents of the first petitioner are someone else. Due to the dispute between the first petitioner and her biological parents, the petitioners 2 & 3 have performed the first petitioner's marriage by stating that they are the biological parents of her. Thereby, the second respondent/defacto complainant made a complaint before the Law Enforcing Agency. However, initially, the Law Enforcing Agency refused to register a complaint. Thereby, the the second respondent/defacto complainant filed a private complaint in Crl.MP.No.2412 of 2020 under Section 156(3) Cr.P.C., before the learned Judicial Magistrate, Vadipatti. In pursuant to which, the present impugned FIR was filed. Challenging the same, the present petition is filed.

4.The learned counsel appearing for the petitioners would submit



that it is a purely a matrimonial dispute in between the first petitioner and the defacto complainant. For which, already, the first petitioner filed a petition in H.M.O.P.No.282 of 2020 before the Family Court, Dindigul seeking restitution of conjugal rights and also filed a petition in M.C.No. 28 of 2021 seeking maintenance. Apart from that, she filed Domestic Violence Case in D.V.O.P.No.13 of 2020 before the Additional Mahila Court, Dindigul. In order to wreck vengeance, the second respondent/defacto complainant already filed a divorce petition in HMOP.No.72 of 2021 before the III Additional Sub Court, Madurai and the said divorce petition was allowed in his favour. Against which, the first petitioner filed a Civil Miscellaneous Appeal before this Court and the same is pending. In order to succeed the divorce case, the defacto complainant made a false complaint before the Law Enforcing Agency as if the first petitioner married the second respondent/defacto complainant by suppressing her biological parents. On earlier occasion, for the very same dispute, the first petitioner filed a complaint before the Deputy Superintendent of Police, Dindigul, for an appropriate enquiry. On that complaint, the Deputy Superintendent of Police, Dindigul, conducted enquiry and on enquiry, it reveals that at the time of marriage, the first petitioner has not suppressed the fact that the petitioners 2 & 3 are the close relatives. Still finished her studies, she lived with her biological



parents namely, Periyasamy and Panchavarnam. Due to some dispute between the first petitioner and her original biological parents, she left the house and started to live with the petitioners 2 & 3. Thereafter, they made marriage arrangements for the first petitioner with the second respondent/defacto complainant. Even though, the names of the petitioners 2 & 3 were found in the marriage invitation as parents of the bride, in the Jathagam of the first petitioner, which was sent to the sister's husband of the second respondent/defacto complainant before marriage the father of the first petitioner was mentioned as Periyasamy. Hence, there is no suppression with regard to the biological parents as alleged by the second respondent/defacto complainant. Even assuming that she married the second respondent by suppressing her biological parents, the marriage was performed in the presence of the elders of the petitioners and the same was accepted by the other persons. Hence, registered the case against the accused persons for the offences punishable under Sections 406, 419 & 420 of IPC is impermissible one. As alleged by the second respondent / defacto complainant, there is no breach of trust. It is purely a matrimonial dispute in between the first petitioner and the second respondent / defacto complainant and therefore, the offences under Sections 419, 406 & 420 of IPC would not attract as against the petitioners accordingly, he prayed for quashing of FIR registered against



the petitioners by allowing this petition.

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5.Per contra, the learned counsel appearing for the second respondent / defacto complainant would submit that though the marriage was arranged through online matrimonial site, thereafter, the petitioners 2 & 3 contacted the second respondent/defacto complainant's family as if they are the biological parents of the first petitioner and their names were also appeared in the marriage invitation due to the dispute in between the first petitioner and her original biological parents. For which, the complaint was also filed. It is made clear that the first petitioner upto finished her higher studies lived with her biological parent and thereafter, she left the biological parents and taken shelter with the petitioners 2 & 3. The petitioners 2 & 3 are the close relatives of the biological parents. Suppressing the said fact, the marriage was performed. Hence, it is a clear case of cheating. Further, the above said relationship in between the first petitioner and the petitioners 2 & 3 does not come under the legal adoption. The said fact was elaborately considered by the trial Court in the divorce petition in HMOP.No.72 of 2021 on the file of the III Additional Sub Court, Madurai filed in under Section 12(1)(c) of the Hindhu Marriage Act, 1955 by the second respondent/defacto complainant and divorce was granted and the marriage was declared as



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'void marriage'. Challenging the same, the first petitioner filed Civil Miscellaneous Appeal appeal before this Court and the same is pending. Already, the trial Court arrived at the conclusion that the marriage is 'void' and that cannot be re-appreciated by this Court. Hence, he prayed for dismissal of this petition.

6.The learned Additional Public Prosecutor appearing for the State would submit that till date charge sheet is not filed.

7. This Court is of the considered view that the non-disclosure of the parental status will not amount to cheating. However, that issue will be considered only at the time of trial. Hence, the FIR registered against the petitioners is liable to be quashed.

8.Accordingly, the FIR in Crime No.93 of 2021 on the file of the first respondent police is hereby quashed and the Criminal Original Petition stands allowed. Consequently, the connected miscellaneous petition is closed.

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NCC : Yes/No
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M.DHANDAPANI. J.

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To

1. The Inspector of Police,
Samayanallur Police Station,
Madurai District.
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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