



Crl.O.P.(MD)No.15492 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.10.2024

CORAM:

THE HONOURABLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

Crl.O.P.(MD)No.15492 of 2022

and

Crl.M.P.(MD)No.10164 of 2022

1.L.Dharmalingam
2.Jeya
3.M.Chella Durai
4.M.Malaiya Nadar
5.M.Kumari
6.V.Pon Perumal
7.P.Vijaya
8.Rethinavathi

... Petitioners/Respondents No.1 to 7 and 12

vs.

Suryaprabha

... Respondent/Complainant

Prayer:- Petition filed under Section 482 of Cr.P.C., to call for the records pertaining to the impugned proceedings filed by the respondent in C.C.No.469 of 2018 pending before the file of the learned Additional Mahila Court (Magisterial Level) Nagercoil and quash the same as illegal as against the petitioners alone.

For Petitioners : M/s.T.Seeni Syed Amma

For Respondent : Mr.M.Saravanakumar



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ORDER

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The Criminal Original Petition is filed to quash the proceedings in C.C.No.469 of 2018 pending on the file of the learned Additional Mahila Court (Magisterial Level) Nagercoil.

2.The case is a private complaint filed by the first respondent herein under Section 200 of the Code of Criminal Procedure complaining an offence under Sections 120, 197, 494, 498A r/w Section 34 of IPC. The gravamen of the allegations with reference to the bigamy is that eventhough originally a divorce petition was filed in H.M.O.P.No.74 of 2004 and the same was decreed on 11.07.2005 against the first respondent's wife, even after knowing that the respondent has filed A.S.No.76 of 2005 and the appeal is pending, the first accused married the second accused at Nagarcoil, Kumara Kovil on 28.08.2006. Subsequently, the decree of divorce granted was set aside by the judgment dated 28.09.2007 made in A.S.No.76 of 2005. As such, the action of the accused amounts to bigamy and the same also amounts to cruelty on the first respondent and hence, the complaint.



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3. When the matter came up for hearing, the learned counsel appearing on behalf of the petitioners would submit that subsequently, the first petitioner had filed C.M.S.A(MD)No.10 of 2008 as against the judgment and decree passed in A.S.No.76 of 2005 and by a judgment and decree dated 26.04.2023, the CMSA was allowed and thereby, the divorce originally granted by the trial Court stands restored.

4. In view thereof, the same would date back to the original order of the trial Court granting divorce. When the said order has since become final and the marriage is subsequent to the divorce, neither the offence under Section 494 of IPC nor the other consequential offences alleged would no longer be made out. In view thereof, this Criminal Original Petition deserves to be allowed and accordingly the impugned proceedings in C.C.No.469 of 2018 shall stand quashed. Consequently, connected miscellaneous petition is closed.

16.10.2024

NCC : Yes / No
sji

To

The Additional Mahila Court (Magisterial Level) Nagercoil.



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D.BHARATHA CHAKRAVARTHY, J.

sjj

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