



Crl.O.P(MD).No.15575 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.04.2024

CORAM :

THE HON'BLE MR JUSTICE A.A.NAKKIRAN

Crl.O.P(MD).No.15575 of 2020 and
Crl.M.P(MD).Nos.7615 and 7617 of 2020

Vijayalakshmi

... Petitioner

Vs.

Alagammal

... Respondent

PRAYER:- Petition filed under Section 482 Cr.P.C., to call for the records relating to C.C.No.130 of 2017 on the file of the learned Judicial Magistrate No.II, Dindigul and quash the same as against the petitioner.

For Petitioner	: Mr.N.Ananda Padmanabhan Senior Counsel for Mr.S.Srikanth
For respondent	: Mr. Babu Rajendran

ORDER

This Criminal Original Petition has been filed to call for the records relating to C.C.No.130 of 2017 on the file of the learned Judicial Magistrate No.II, Dindigul and quash the same as against the petitioner.



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2. The case of the prosecution is that the marriage between the respondent and one Karuppiah was solemnized on 09.06.1978 as per Hindu Rites and Customs. Three children were born out of wedlock. Due to the matrimonial dispute they were living separately and the ex parte decree of divorce was passed on 02.07.2002. After the appeal period was over, the petitioner married the said Karuppiah on 28.10.2022. In such circumstances, the said respondent filed a petition to set aside the ex parte divorce and the same was allowed. Again, the said Karuppiah filed a petition in HMOP.No.175 of 2016 on the file of the Family Court, Dindigul and the same was dismissed. Challenging the same, he filed an appeal in CMA(MD).No.275 of 2020 before the this Court and the same is pending. In such circumstances, the respondent filed a private complaint before the Judicial Magistrate No.II, Dindigul against the petitioner and the same was taken on file in C.C.No.130 of 2017 for the offences under Sections 148, 149, 452, 494, 497 and 506(ii) IPC r/w. 109 IPC. Challenging the same, the petitioner herein has filed the present petition.

3. The learned counsel appearing for the petitioner submitted that the petitioner married the said Karuppiah, after he obtained a decree



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of divorce on 28.10.2002. Hence, as per the Judgment of the Hon'ble Supreme Court reported in **2001(2) ALD Cri 156, I (2001) DMC 675, SC (2002) 10 SCC 216**, the offences alleged under Sections 494 and 497 are not made out as against the petitioner and prays for allowing this petition.

4. The learned counsel appearing respondent conceded with the arguments of the learned counsel for the petitioner with regard to quashing of Sections 494 and 497 IPC. With regard to the other offences, he contended that only on examination of witnesses, the allegations will be proved. He would further submit that earlier the petition filed by the co-accused in Crl.O.P(MD).No.6121 of 2017 was dismissed by this Court on 11.12.2020 and further, this Court has also issued a direction to the trial Court to dispose of the said the case, within a period of six months from the date of receipt of a copy of that order and prays for dismissal of this petition.

5. Heard the learned counsel appearing on either side and perused the materials available on record.



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6. Since the respondent counsel conceded with the arguments of the learned counsel appearing for the petitioner with regard to the quashing of this Criminal Original Petition for the offences under Sections 494 and 497 IPC, this Criminal Original Petition is quashed only in respect of the above said offence under Sections 494 and 497 IPC. With regard to the other offences, the truth will come out only after examination of all the witnesses, this Criminal Original Petition is dismissed. However, the petitioner is given liberty to raise all her contentions, including the contentions raised in this Criminal Original Petition at the time of trial.

6. Accordingly, this Criminal Original Petition is partly allowed. Consequently, the connected Miscellaneous Petitions are closed.

15.04.2024

Internet : Yes / No
Index : Yes / No
Speaking / Non Speaking order
trp



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To
WEB COPY

1. The learned Judicial Magistrate No.II, Dindigul
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



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A.A.NAKKIRAN, J.

Trp

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