

Crl.O.P.(MD) No.3115 of 2025

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

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DATED : 18.03.2025

CORAM

**THE HONOURABLE MR.JUSTICE P.DHANABAL**

CRL. OP(MD). No.3115 of 2025

Kalirajan

... Petitioner

Vs.

1. The Inspector of Police  
All Women Police Station  
Nilakottai, Dindigul District

2.Pandiyarajan

... Respondents

**PRAYER:** Criminal Original Petition filed under Section 528 of BNSS to call for the records pertaining to the charge sheet in C.C.No.80 of 2022 on the file of the learned Judicial Magistrate, Nilakottai as against this petitioner and quash the same as illegal.

For Petitioner : Mr.S.Sukumar

For Respondents : Mr.M.Sakthi Kumar  
No.1 Government Advocate (Crl. Side)

### **ORDER**

This Criminal Original Petition has been filed to quash the charge sheet in C.C.No.80 of 2022 on the file of the learned Judicial Magistrate, Nilakottai.



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**WEB COPY** 2. The case of the prosecution is that the marriage between the first accused and the defacto complainant was solemnized on 09.09.2013 at T.S.Sekaran Thirumana Mahal, Nilakottai. At the time of marriage the family of the first accused represented that he was working as Bank Employee in Madurai . Thereafter the first accused called the defacto complainant over phone and informed that she has to appear before the Madurai Bench of Madras High Court for a case relating to HCP(MD) No.94 of 2014. On enquiry the defacto complainant came to know that one Sankara Narayanan claiming that the first accused is his wife and she was in illegal custody of her father and further came to know that the said Sankara Narayanan and the first accused fell in love and got married at Sri Ponnaswari Amman Temple, Trichy and registered their marriage before District Registrar Office, Trichy on 19.06.2012. Suppressing the first marriage the other accused persons arranged marriage of the first accused with the defacto complainant and when the same was questioned by the accused, they threatened the defacto complainant, abused him in filthy language . Thereafter complaint was lodged by the defacto complainant and the first respondent registered a case in Crime No. 365 of 2014 for the offences under Sections 463,464,468, 469,471,



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420 and 506(i) of IPC and thereafter the first respondent conducted detailed investigation and also filed final report and the same was taken on file in C.C.No.80 of 2022 by the learned Judicial Magistrate, Nilakottai.. Now the petitioner who is arrayed as fourth accused is challenging the final report.

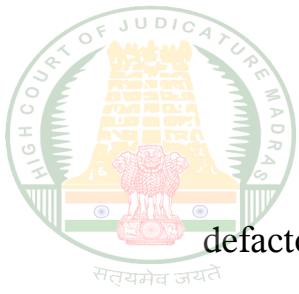
3. The learned counsel appearing for the petitioner would submit the petitioner is an innocent and he has not committed any offence as alleged by the defacto complainant. The petitioner is the brother of the first accused and his sister married the said Sankara Narayanan. Infact the said Sankara Narayanan is the petitioner's brother and the said Sankara Narayanan mis- used the certificate of her sister and created forged documents. Now challenging the said marriage his sister also filed a suit in O.S.No.31 of 2015 on the file of the Family Court, Madurai and the same is also pending. The sister of the petitioner also filed HMOP No.24 of 2019 before the Principal Sub Court, Dindigul and the marriage with the second respondent also got dissolved through an order dated 09.09.2023. In such circumstances the respondent police without conducting proper investigation filed final report against the petitioner and the trial Court also taken cognizance without any prima facie



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materials. Further as against A1 to A3 and A5 to A9 quash petition was filed before this Court in Crl.O.P(MD) NO.21870 of 2023 and the same was allowed by this Court on 24.10.2024. There are no ingredients to constitute the offence as against this petitioner and this petitioner has not solemnized the marriage between the first accused and the second respondent by suppressing the earlier marriage. There was no earlier marriage between the petitioner's sister and the Sankara Narayanan and there is no any dishonest intention to constitute the offence of cheating. There is no ingredients to constitute the offence under Section 506(i) of IPC, therefore the pending proceedings in C.C.No.80 of 2022 on the file of the learned Judicial Magistrate, Nilakottai is liable to be quashed.

4. The learned Government Advocate(Crl.Side) appearing for the first respondent would submit that based on the complaint given by the second respondent a case has been registered against the petitioner in Crime No. 365 of 2014 for the offences under Sections 463, 464, 468, 469,471,420 and 506(i) of IPC and thereafter they conducted investigation and as per the investigation already the petitioner's sister namely the first accused got register marriage with Sankara Narayanan and thereafter by suppressing the same they conducted marriage with the



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defacto complainant. Therefore there are prima facie materials available as against this petitioner. However the case against the other accused was quashed by this Court through an order dated 24.10.2024 in Crl.O.P(MD) No. 21870 of 2023.

5. Heard both sides and perused the materials available on record.

6. According to the petitioner based on the complaint given by the second respondent a case has been registered in Crime No. 365 of 2014 for the offences under Sections 463, 464, 468, 469, 471, 420 and 506(i) of IPC and thereafter the first respondent without conducting proper investigation filed final report and the same was taken cognizance by the trial Court and the same is pending in C.C.No.80 of 2022. As per the prosecution there are prima facie materials available as against the petitioner and thereby the petitioner has to face the trial. The main allegation against the petitioner is that the petitioner along with others had performed marriage of the first accused with one Sankara Narayanan and again they solemnized the marriage between the first accused and the second respondent/defacto complainant. When the same was questioned by the defacto complainant and their relatives, the petitioner and other



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accused have threatened with dire consequences, therefore the petition has been filed. Moreover it is admitted that this Court has quashed the proceedings against other accused in Crl.O.P(MD) No.21870 of 2024. This Court also perused the above said order, wherein it is held as follows:

*“8. At the outset, as rightly contended by the learned counsel for the petitioner, the charge under Section 495 cannot be laid by the respondent police. The embargo under section 198 of the Code of Criminal Procedure is very clear that unless and otherwise the aggrieved person makes a complaint before the appropriate Court, no court can take cognizance of this said offence. Admittedly, even though the de-facto complainant is an aggrieved person, he did not make any complaint before the concerned Court. As a matter of fact, the FIR itself was not registered initially under the said provision. Therefore, even if the respondent police, during the course of the investigation, have found out that an offence of bigamy seems to have been committed, they ought to have advised the de-facto complainant to file a complaint before the appropriate Court and cannot lay a charge sheet by themselves. Therefore, on this ground, the charge under Section 495 is not maintainable. Even otherwise, as per the declaration made by the civil Court in respect of marital status is binding on the Criminal Court by virtue of Sections 41 and 42 of the Indian Evidence Act, 1872. Therefore, once the competent court exercising matrimonial jurisdiction gives a finding that the marriage had never taken place and it is a farce and it is a null and void, it will date back and undo the mischief. In light of the judgment of the Family Court Madurai, in O.S. No. 31 of 2015, it can no longer be asserted that the petitioner committed bigamy. When that being the*



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*situation, offences under Section 495 or 420 cannot be held to be made out.*

*9. As rightly contended by the learned counsel, when the major offences based on which the complaint is given and the final report is filed are not made out and not sustainable, the incidental offences of 294(b) and 506(i) alone cannot stand on its own. As a matter of fact, a perusal of the final report, it can be seen that there is no crystal clear averments by the witnesses with reference to any public place in which any sexually coloured, languages being used and therefore, the offence under Section 294(b) is also not made out. For all the above reasons, I am of the view that this is a fit case where this Court shall interfere in the matter.*

7. This Court earlier quashed the CC proceedings as against other accused on the ground of embargo under Section 198 of IPC. Earlier the other accused also filed a petition to quash the proceedings against them and the same was allowed. Even on merits also there is no materials to show that the marriage was solemnized between the first accused who is the sister of the petitioner and one Sankara Narayanan. More over the said marriage also challenged through Court of law in O.S.No.31 of 2015 and there are no materials that the above said first marriage is known to the petitioner. Therefore the offence under Section 420 of IPC would not attract.



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WEB COPY 8. So far as offence under Section 294(b) of IPC is concerned there is no any specific allegation as against this petitioner that this petitioner uttered obscene words in and around public place and cause annoyance to the defacto complainant.

9. So far as offence under Section 506(i) of IPC there are no materials against the petitioner that the petitioner caused criminal intimidation and the same created fear in the minds of the defacto complainant. It is settled law that mere utterance of the words would not attract the offence under Section 506(i) of IPC

10. So far as offence under Section 420 of IPC is concerned there are no materials that the petitioner with dishonest intention cheated the petitioner.

11. Therefore there are no materials to prosecute as against the petitioners, and thereby the pending charge sheet is liable to be quashed.



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12 Accordingly the Criminal Original Petition stands allowed and the proceedings in C.C.No.80 of 2022 on the file of the learned Judicial Magistrate, Nilakottai is hereby quashed. Consequently connected miscellaneous petition stands closed.

**18.03.2025**

Internet :Yes  
Index :Yes/No  
NCC :Yes/No  
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To

1. The Judicial Magistrate, Nilakottai
2. The Inspector of Police  
All Women Police Station  
Nilakottai, Dindigul District
3. The Additional Public Prosecutor,  
Madurai Bench of Madras High Court,  
Madurai.



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**P.DHANABAL, J.**

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