



Crl.O.P.(MD)No.19718 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.01.2025

CORAM

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

Crl.O.P.(MD) No.19718 of 2022

and

Crl.M.P.(MD) Nos.13542 and 13543 of 2022

Parameswari

... Petitioner /Accused No.4

Vs.

1.State through the
The Inspector of Police,
AWPS Thiruppathur,
Sivagangai District.
(In Crime No.5 of 2020)

... 1st Respondent/Complainant

2.S.Rani

... 2nd Respondent/
defacto complainant

PRAYER : Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the entire records pertaining to the charge sheet filed in C.C.No.5 of 2020 on the file of the Principal District Munsif-cum-Judicial Magistrate, Thiruppathur District and quash the same.

For Petitioner : Mr.P.Saravanakumar

For Respondents : Mr.A.Albert James
Additional Public Prosecutor
for R1
Mr.P.Aju Tagore for R2



Crl.O.P.(MD)No.19718 of 2022

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ORDER

This petition has been filed seeking to quash the proceedings pending in C.C.No.5 of 2020, on the file of the learned Principal District Munsif-cum-Judicial Magistrate, Thiruppathur.

2.Heard the learned counsel for the petitioner, the learned Additional Public Prosecutor appearing on behalf of the first respondent and the learned counsel appearing for the second respondent.

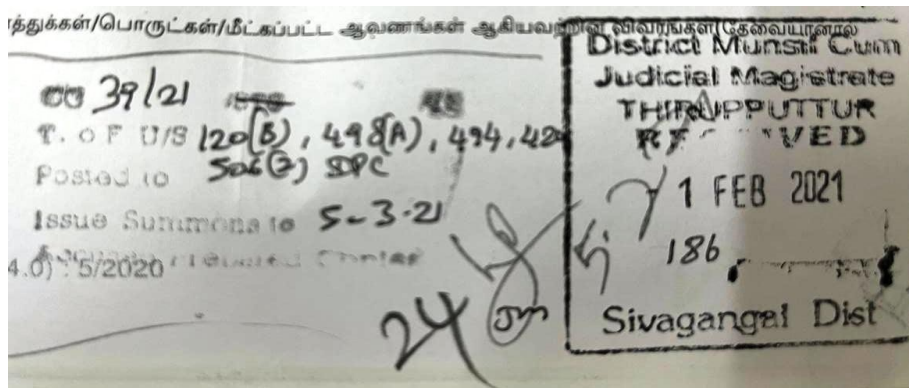
3. The case of the prosecution is that the second respondent is the wife of A1 and their marriage was held on 11.09.2008. Two children were born to them. It is alleged that A1 had an illicit relationship with A4 and subsequently married her also. Apart from that, the second respondent was also treated with cruelty (both physical and mental) by the accused persons. There are totally 4 accused persons in this case and the petitioner has been arrayed as A4 and she is said to have married A1 when the first marriage was in subsistence. A1 is the husband, A2 is the mother-in-law and A3 is the father-in-law.



Crl.O.P.(MD)No.19718 of 2022

WEB COPY

4.It is not necessary for this Court to go into any of the issues in view of the fact that the Court below has taken rubber stamp cognizance. For proper appreciation, the cognizance taken by the Court below is scanned and extracted hereunder:



5.This Court by relying upon the judgment of the Apex Court has repeatedly held that the process of taking cognizance is a judicial process which requires application of mind. A rubber stamp cognizance is no cognizance in the eye of law since what is being done is to put the seal in the complaint and fill-up the gaps. Such rubber stamp cognizance has been frowned upon by this Court. Useful reference can be made to the judgment of this Court in *Shanmugam and others v. Inspector of Police, Ariyalur Police Station, Ariyalur and others*,



Crl.O.P.(MD)No.19718 of 2022

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reported in **(2019) 3 MLJ (Crl.) 339**. The Apex Court also dealt with this issue in ***S.K.Sinha, Chief Enforcement Officer v. Videocon International Ltd & Ors.***, reported in **(2008) 1 SCC (Crl.) 471**.

6.In view of the above, the rubber stamp cognizance taken by the Court below is hereby set aside. The matter is remitted back to the file of the learned Principal District Munsif-cum-Judicial Magistrate, Thiruppathur and the learned Judicial Magistrate shall apply his mind on the allegations made in the complaint and the materials relied upon and pass appropriate orders which must reflect the application of mind. This process shall be complied within a period of four weeks from the date of receipt of a copy of this order.

7.In the result, this Criminal Original Petition is allowed in the above terms. Consequently, connected miscellaneous petitions are closed.

28.01.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
PKN



Crl.O.P.(MD)No.19718 of 2022

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To

- 1.The Principal District Munsif-cum-Judicial Magistrate, Thiruppathur.
- 2.The Inspector of Police,
AWPS Thiruppathur,
Sivagangai District.
- 3.The Additional Public Prosecutor
Madurai Bench of Madras High Court.



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Crl.O.P.(MD)No.19718 of 2022

N.ANAND VENKATESH,J.

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Dated: 28.01.2025