

(2006) 03 MAD CK 0349

In the Madras High Court

Case No : Criminal O.P. No. 4798 of 2006 and Criminal M.P. No's. 1234, 1388 and 1389 of 2006

Lakshmi Priya, V. Chockalingam and Mrs. Azhagammai

APPELLANT

Vs

B. Rabu Manohar

RESPONDENT

Date of Decision : 09-03-2006

Acts Referred:

Penal Code, 1860 (IPC) — Section 500

Citation : (2006) 03 MAD CK 0349

Hon'ble Judges : M. Jeyapaul, J

Bench : Single Bench

Advocate : N. Rajan, for the Appellant; K. Kannan, for the Respondent

Final Decision : Allowed

Judgement

M. Jeyapaul, J.—The petition is filed seeking quashment of the complaint in C.C. No. 496 of 2006 pending on the file of the learned Chief Metropolitan Magistrate, Egmore, Chennai-8.

2. The complainant, who is the respondent herein, has launched prosecution as against the petitioners herein for offence punishable u/s 500 of the Indian Penal Code.

3. The allegations found in the complaint filed by the respondent/complainant are as follows:-

The complainant is married to Anitha Mabel and was blessed with a son. He is active in politics. He has appeared in many sensitive cases. He has carved a niche for himself as a professional of high standard. His wife Smt. Anitha Mabel Manohar is working as an Associate Professor at National Institute of Fashion, Chennai from 1996. She is also a Specialist Consultant for several institutions for fashion technology.

4. The complainant's acquaintance with the first accused Lakshmi Priya was

purely professional in nature. She applied several crafty plots to create occasions for proximate contact with the complainant. She started sending vulgar SMS to him. On 14.7.2005, the first accused came to the house of the complainant in his absence and threatened to do away with the life of his wife. She had also threatened to commit suicide if the complainant did not permit access to her.

5. On 3.8.2005, the first accused notified in the gazette her change of name as though she was the wife of the complainant. She had also shot off a letter to the Director of Institute of Fashion, Chennai, under whom the complainant's wife is working, alleging that the first accused had married the complainant on 5.5.2005 at Tirutani Murugan Temple as per Hindu Rites and Customs. She was pitching in on the innuendoes against the complainant and his wife periodically. With the help of the second and third accused, the first accused put up a shamiana within the High Court Campus on 29.9.2005 unauthorisedly and made an ugly show with placards alleging that the complainant had committed deceit. The first accused is indulging in blackmailing and is attempting to fabricate issues for bringing disrepute to him.

6. The persistent false complaint is clearly motivated to sully the image of the complainant and his wife and also to secure a huge amount. The publicity made by the first accused as though the first accused had married the complainant, is prima facie defamatory. There could not have been a lawful marriage at Tirutani Murugan Temple as alleged by the first accused. The first accused has been giving another news to the press media which has been covered widely in the State. The complainant had already made a civil claim for damages for the defamation. The accused has to be punished u/s 500 of the Indian Penal Code also.

7. The petitioners/accused have contended in the petition seeking quashment of the proceedings as follows:-

The respondent herein who is an advocate informed the first petitioner who is also a practising advocate that his wife Mrs. Anitha passed away a couple of years back and he was living with a son. As he expressed his willingness to marry the first petitioner, the marriage was arranged in Tirutani Murugan Temple on 5.5.2005. On circulation of invitation, close friends and relatives blessed the couple after their marriage at Tirutani Murugan Temple. The first petitioner and the respondent started their marital life at Pattabiram in Chennai. The first petitioner was shocked to know that his first wife Mrs. Anitha is still living. With a fraudulent intention, the respondent refused to register their marriage which was solemnised in the temple precincts. The first petitioner has launched prosecution as against the respondent with B.4 Police Station, Chennai for the offences of cheating and bigamy. She was shadowed by some goondas and was threatened with dire consequences. The first petitioner had given a complaint to the Hon'ble Chief Justice of Madras High Court. She also made representation to various associations, High Court and the Commissioner of Police. She observed fasting until death before the High Court Campus to highlight her problem. A defamation

suit had already been filed against the first petitioner by respondent. Therefore, the petitioners pray that the criminal proceedings in C.C. No. 496 of 2006 may be quashed.

8. The elaborate argument submitted by the learned counsel for the petitioners as well as the respondent were heard.

9. Learned counsel for the petitioners would submit that the marriage solemnised at the temple in Tirutani, in the presence of the relatives and advocates, was not denied specifically by the respondent. When the first petitioner was married and was left in the lurch, she had chosen to ventilate her grievance through various Forums. Such conduct of the first petitioner does not amount to intentional action to harm the reputation of the respondent.

10. Learned counsel for the respondent would submit that the first petitioner is not at all the wife of the respondent. She has caused damage to the reputation of the respondent and his wife in the eye of the public with sinister imputations. The private complaint given by the respondent gives graphic account of the defamatory action of the petitioners, it is further submitted.

11. The first petitioner has produced before this Court an invitation alleged to have been printed and circulated amongst friends and relatives. But such an invitation card produced by the first petitioner is objected to by the other side. This Court does not like to embark upon an enquiry to test the veracity of such a marriage invitation which is in dispute.

12. The respondent has specifically stated in the complaint that the first petitioner chose to address a letter to the Director of Institute of Fashion, Chennai, alleging that the first petitioner had married the complainant on 5.5.2005 at Tirutani Murugan Temple as per the Hindu Rites and Customs. As rightly pointed out by the learned counsel for the petitioners, the respondent has not specifically denied such a marriage held at Tirutani Murugan Temple between the first petitioner and the complainant. There is only very vague and indirect denial. It has been averred to in the complaint "the complainant is a Protestant Christian and there could not have been a lawful marriage at Tirutani Murugan Temple as alleged by the first accused". So the first petitioner/accused has chosen to attack the legality of the marriage between a Christian and a Hindu in Tirutani Murugan Temple sans registration.

13. The first petitioner had admittedly changed her name even as early as on 3.8.2005 annexing the name of the respondent herein. She has changed her name to give an indication that she is the wife of the respondent. At the instance of the first petitioner, a criminal case has been booked as against the respondent for the offences of cheating and bigamy. It is seen that she has approached many associations to ventilate her grievance in the fond hope of getting justice.

14. Declaring that she is the wife of the respondent, she staged a protest in the Campus of the High Court, Madras, to attract the attention of the public. A suit

has already been filed by the respondent seeking damages for the loss of reputation on account of the action of the first petitioner.

15. The Court finds that all the actions of the first petitioner have been initiated by her only to get justice for the alleged claim made by her. There can be no intention on the part of the first petitioner to spoil the reputation of the respondent and his wife.

16. The first petitioner has knocked at the doors of many a Forum to highlight her problem. It is not as if there is no connection between the first petitioner and the respondent. When the first petitioner has initiated criminal action against the respondent, the latter has now come out with the criminal action to silence her. The defamation case has been launched only to deactivate the first petitioner from ventilating her grievances. Nobody can be permitted to take recourse to criminal law either to harass a person or wreak vengeance against him or her. This criminal complaint has been given only as a counter-blast to all the actions initiated by the first petitioner.

17. The allegations levelled against the respondent by the first petitioner have already culminated into a criminal proceeding. Those allegations are projected by the respondent as defamatory in content and character. The first petitioner stands by all the allegations made against the respondent. In such circumstances, the Court finds that the allegations against the respondent and his wife have not been made with an ill-intention to bring disrepute to the respondent and his wife. The action initiated by the respondent as against the petitioners with a view to counter-blast the action of the first petitioner, cannot be countenanced. Such a criminal proceedings cannot be permitted to continue as it is a sheer misuse of process of law.

18. In the result, the criminal proceedings in C.C. No. 496 of 2006 on the file of the learned Chief Metropolitan Magistrate, Egmore, Chennai-8 stands quashed and the criminal original petition stands allowed. Consequently, connected criminal miscellaneous petitions stand closed.