

(2010) 03 MAD CK 0057

In the Madras High Court

Case No : Criminal O.P. No. 10906 of 2006

N. Raman and Others

APPELLANT

Vs

N. Pachayammal

RESPONDENT

Date of Decision : 31-03-2010

Acts Referred:

Penal Code, 1860 (IPC) — Section 494, 499, 503, 504

Citation : (2010) 03 MAD CK 0057

Hon'ble Judges : C.T. Selvam, J

Bench : Single Bench

Advocate : S. Udhayakumar, for the Appellant; S. Sairaman, for the Respondent

Final Decision : Allowed

Judgement

C.T. Selvam, J.—The petitioners, who are the accused in C.C. No. 51 of 2006, on the file of the learned Judicial Magistrate, Tiruttani, for

offence under Sections 499, 503 and 504 I.P.C. seek to quash the case against them.

2. In the said case, the fourth petitioner S. Latha, wife of one Sekar as also the other petitioners, who are the father and brothers of the fourth

petitioner are said to have caused a commotion at the residential place of the complainant stating the husband of the fourth petitioner entered into a

bigamous marriage with the respondent/complainant. The complaint also informed that at the hands of the petitioners, the complainant has suffered

severe damage marring the prospects of her marriage.

3. The petitioners inform that two mentally retarded children were born to the fourth petitioner and her husband Sekar and the said Sekar had

entered into a bigamous marriage with the respondent/complainant. The fourth petitioner had moved divorce petition before the Sub-Court,

Thiruvallur and till date no maintenance had been given either to the fourth petitioner or to the minor children. According to the petitioners, the revenue authorities had informed that the fourth petitioner's husband Sekar and the defacto complainant had entered into a bigamous marriage.

The main contention on behalf of the petitioners is that a complaint had been preferred by the fourth petitioner against her husband P. Sekar, the respondent/complainant and one another alleging commission of offence u/s 494 I.P.C. It was only as a counter blast, the respondent/complainant has preferred the complaint and hence, this case is to be quashed.

4. In response to the above submissions made by the learned Counsel for the petitioners, the learned Counsel for the respondent submits that the respondent had been defamed by the petitioners and when the lower Court thought it fit to take cognizance, this Court would not interfere. It is impressed that under orders in Crl. O.P. No. 9450 of 2007 dated 02.12.2008, the case alleging bigamy in C.C. No. 124 of 2005, on the file of the learned Judicial Magistrate, Arakkonam, Vellore District, stands quashed.

5. Considering the rival submissions, it is seen that this Court had quashed the case in C.C. No. 124 of 2005, on the reasoning that neither in the complaint nor in the sworn statement, there are allegations constituting the ingredients for the commission of the offence u/s 494 I.P.C. and the details with regard to the alleged second marriage undergone by the first petitioner P. Sekar with the respondent herein, names of the witnesses, who allegedly witnessed the second marriage and the essential ceremonies which are necessary for performing a valid marriage had not been mentioned.

6. From the fact that a offence of bigamy has been complained in C.C. No. 124 of 2005, it can be gauged that the petitioners held genuine belief that the husband of the fourth petitioner and the defacto complainant had entered upon a bigamous marriage. The case alleging bigamy stands quashed not on factual considerations. It is apparent that the present complaint case has been filed only as a counter blast and amounts to a malafide abuse of process.

7. For the above reasons, the criminal original petition stands allowed and the proceedings in C.C. No. 51 of 2006, on the file of learned Judicial Magistrate, Tiruttani shall stand quashed.