

(2016) 01 MAD CK 0163
In the Madras High Court
Case No : W.P. No. 34508 of 2015

S. Jeyanthi

APPELLANT

Vs

The Inspector General of Registration and Others

RESPONDENT

Date of Decision : 05-01-2016

Acts Referred:

Citation : (2016) 1 LW 747

Hon'ble Judges : M.M. Sundresh, J.

Bench : Single Bench

Advocate : V. Karthikeyan, for the Appellant; R.A.S. Senthilvel, Additional Government Pleader, for the Respondent

Final Decision : Disposed Off

Judgement

M.M. Sundresh, J.—1. Heard the learned counsel for the petitioner and the learned Additional Government Pleader appearing for respondents 1 to 3. Despite notice having been served and name printed, the 4th respondent has neither appeared in person nor through counsel.

2. Earlier, the 4th respondent filed a Habeas Corpus Petition in H.C.P. No. 2141 of 2014 (reported in 2014-5-L.W. 207) before this Court. By an order dated 17.10.2014, a Division Bench of this Court, after hearing the parties, was pleased to pass the following order:

"5. In H.C.P. No. 2141/2014 (reported in 2014-5-L.W. 207), R. Ram Prasath, the petitioner, has stated that he was in love with the detenu and they both got married on 30.06.2014, which was registered in the Office of Registrar of Marriages, Chennai North, (Joint-I), on the same day and that after the marriage, the detenu went back to her parents house. He has further alleged in his Affidavit that the parents of the detenu are keeping her in illegal custody and trying to get her forcibly married to someone and therefore, he has sought for issuance of Writ of Habeas Corpus for her production and release from illegal detention. On the strength of the Marriage Certificate produced by the petitioner,

we issued notice to the respondents. The detenu appeared before us and stated that the petitioner, a Carpenter by profession, was employed by her father to carry out certain interior decoration in her house and thus, she got acquainted with him. She further stated that she was preparing for Civil Service Examinations and at that time, the petitioner told her that if she prays to a certain "god man", she will be able to clear the examination and so he took her to a "god man", who performed some ceremonies and mesmerised her. She also filed a Counter narrating the sequences of events and in para 7 of her Affidavit, she has stated as follows:

"7. The petitioner has averred that a Marriage Certificate was issued by an Advocate Sivakumar. I have never met the Advocate nor visited his office. These Certificates relied upon by the petitioner have been obtained by fraud and collusion and I have never married the petitioner or consented to the same."

6. The Marriage Certificate produced by the petitioner shows that, the marriage was performed at No. 117/118, Angappa Naicken Street, Chennai-1, which is also shown as the address for service of the Counsel on record M/s. A. Arul Deepan and L. Ramu in the Vakalatnama. From this, it is obvious that the alleged marriage has been performed by the Advocate in his office premises."

3. Thus, a finding of fact has been rendered by the Division Bench of this Honourable Court at the instance of the 4th respondent, holding that the alleged marriage between him and the petitioner was performed by an Advocate in his office premises. As has been seen, the petitioner has stated even before the Division Bench of this Court that she never married the 4th respondent. Accordingly, the Habeas Corpus Petition was disposed of in the following manner.

"41. To sum up:

(a) Marriages performed in secrecy in the chambers of Advocates and Bar Association Rooms, will not amount to solemnisation and only women, who are victims of such marriage can question the same in matrimonial proceedings before the appropriate Court as a question of fact.

(b) No registration of marriage can be done under the Tamil Nadu Registration of Marriages Act, 2009 without the physical presence of the parties to the marriage before the Registrar, except under special circumstances after recording the reasons.

(c) If a complaint is made by a party to the marriage to the Bar Council of Tamil Nadu and Puducherry against a Priest-cum-Advocate, the Bar Council shall take appropriate action in accordance with law.

(d) On complaints lodged by the Registering Authorities seeking protection, the Police are directed to afford sufficient protection immediately."

4. Thereafter, the petitioner has come forward to file this Writ Petition to cancel the Certificate of Marriage registered under Registration No. 2957 of 2015, dated

30.06.2014 with a consequential direction to the 3rd respondent to delete, cancel and remove the same from the Marriage Records maintained by him.

5. The above said facts narrated would clearly show that the petitioner is entitled for the relief sought for. Perhaps, there is a reason why the 4th respondent has not come before this Court. It is also the specific case of the petitioner that she did not go to the Registrar Office and got the alleged marriage registered. There is neither any counter affidavit nor any instructions forthcoming from the official respondents in this regard. As stated above, even the 4th respondent is conspicuous by his absence. Therefore, the ratio laid down by the Division Bench of this Court that too between the same parties would entitle the petitioner to get the relief, though the official respondents were not parties therein. The petitioner has suffered sufficiently. It is unfair to drive her to go to the Court seeking a divorce or declare the proceedings null and void in view of the earlier proceedings. This Court also does not want to extend her agony any more. Accordingly, the Writ Petition stands allowed by quashing the Registration made by the 3rd respondent vide Registration No. 2957 of 2014 dated 30.06.2014 and consequently, the said authority is directed to delete and remove the same from the Marriage Records. Such exercise will have to be completed within a period of six (6) weeks from the date of receipt of a copy of this order. No costs. Consequently, connected M.P. Nos. 1 and 2 of 2015 are closed.