

J. Samuel, Vs. Assistant Commissioner of Police, Guindy Range and

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Court : Chennai

Decided On : Mar-30-2010

Judge : C.T. Selvam, J.

Acts : Dowry Prohibition Act - Sections 4 and 6; ;Indian Divorce Act - Section 10A;
;Negotiable Instruments Act - Section 138; ;Code of Civil Procedure (CPC) -
Sections 109, 406 and 498A

Appeal No. : Crl. O.P. No. 11417 of 2007 and M.P. Nos. 1 and 2 of 2007

Appellant : J. Samuel,; D. James Jeyapaul,; J. Mary Kethsiba And; J. Sarah Joy

Respondent : Assistant Commissioner of Police, Guindy Range And; Inspector of
Police

Advocate for Def. : J.C. Durairaj, Government Adv. (Crl. Side)

Advocate for Pet/Ap. : Thomas, Adv.

Disposition : Petition allowed

Judgement :

ORDER

C.T. Selvam, J.

1. The petitioners herein seek to quash the proceedings against them in C.C. No. 6420 of 2006 on the file of the IV Metropolitan Magistrate, Saidapet, Chennai. In such case, the petitioners are facing prosecution for offences under Sections 498-A and 406 r/w. 109 CPC and Sections 4 & 6 of the Dowry Prohibition Act. The first petitioner is the husband of the defacto complainant while the second and third petitioners are the parents of the first petitioner and the fourth petitioner is the sister of the first petitioner.

2. The matter earlier was posted on several occasions for reporting settlement. Learned Counsel for the petitioners submitted that a Joint Petition under Section 10(A) of the Indian Divorce Act, for dissolution of marriage between the first petitioner and the defacto complainant, has been filed before the Family Court, Chennai, in O.P. No. 3173 of 2007. Accordingly, the Family Court dissolved the marriage between the first petitioner and the defacto complainant.

3. Perusal of the certified copy of the joint petition filed before the Family Court shows that both parties mutually agreed that they would withdraw the cases filed against each other especially that the defacto complainant would withdraw all allegations against the first petitioner and his family members in C.C. No. 6420 of 2005 and 3453 of 2005.

4. Learned Counsel for the petitioners informs that despite the best efforts, the first petitioner is unable to contact the defacto complainant so as to have her presence before this Court either in person or through the counsel to acknowledge the settlement arrived at between them. Learned Counsel for the petitioners also informs that the other case in C.C. No. 3453 of 2005 was prosecuted for offence under Section 138 of Negotiable Instruments Act and that case also stands withdrawn.

5. I have heard the learned Government Advocate (Crl. Side).

6. In view of the categorical mutual agreement recorded in the joint petition and the fact that pursuant to that the Family Court has passed an order of dissolution of marriage, this Court is inclined to accept the position stated therein and act thereupon. Accordingly, the proceedings in C.C. No. 6420 of 2006 on the file of the

IV Metropolitan Magistrate, Saidapet, Chennai is quashed. This Criminal Original Petition is allowed. Consequently, connected Miscellaneous Petitions are closed.

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