



*Crl.O.P.(MD)No.11840 of 2022*

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 20.07.2022

**CORAM**

**THE HONOURABLE MR.JUSTICE V.SIVAGNANAM**

**Crl.O.P(MD)No.11840 of 2022**

Irfana Nasreen

... Petitioner

Vs.

The State,  
Represented by,  
The Inspector of Police,  
All Women Police Station,  
Thallakulam,  
Madurai City.  
(Crime No.25 of 2022)

...Respondent

**Prayer:** Criminal Original Petition is filed under Section 482 Cr.P.C., directing the respondent police to alter the FIR in Crime No.25/2022 on the file of the respondent police station by including the Sections 420, 417 and 379 IPC therein.

For Petitioner : Mr.M.Radhakrishnan

For Respondent : Mr.R.Suresh Kumar,  
Government Advocate (Criminal Side).



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## **ORDER**

This Criminal Original Petition has been filed to direct the respondent police to alter the FIR in Crime No.25 of 2022 on the file of the respondent police station by including the Sections 420, 417 and 379 IPC therein. Even though the petitioner sought to include Section 379 I.P.C, the learned counsel for the petitioner has not pressed the same.

2. The learned counsel for the petitioner submitted that the petitioner is the wife and the accused is the husband. The first accused husband without disclosing the fact that he is an impotent, married the complainant for the second time and he also received 200 sovereigns gold jewels, with things worth about Rs.5,00,000/- (Rupees Five Lakhs only). After the marriage, the petitioner came to know that her husband is an impotent and subsequently, she came to know that her husband's first marriage was ended in failure on the ground that he is an impotent. Under these circumstances, the petitioner's husband and his family members without disclosing the entire facts, cheated the petitioner by not disclosing her husband's impotency and showed himself as a competent person to consummate the marriage. After the truth came to light about the accused husband, having no other way, to get rid of this situation, the



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accused husband granted divorce by saying talak and went to U.S. Aggrieved

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over the same, the petitioner given a complaint to the respondent Police. They registered a case in Crime No.25 of 2022 under Sections 498-A and 406 I.P.C without including the offences punishable under Sections 417 and 420 I.P.C, even though the allegations disclosed the fact of cheating committed by the accused persons. Hence, the petitioner filed this Petition to include the offences punishable under Sections 417 and 420 I.P.C.

3. The learned Government Advocate (Criminal Side), appearing for the respondents submitted that after receiving the complaint, a case has been registered in Crime No.25 of 2022 for offences under Sections 498-A and 406 I.P.C. Now, the matter has been referred for preliminary enquiry to Social Welfare Department, Madurai, for the purpose of conducting preliminary enquiry. After receiving the report from the Social Welfare Department, Madurai, they are ready to consider the alteration of F.I.R.

4. I have considered the matter in the light of the submissions made by the learned counsel for the petitioner and the learned Government Advocate (Criminal Side) appearing for the respondent and perused the records.



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**WEB COPY 5.** Perusal of the records reveals the fact that the petitioner is the complainant. The marriage between the petitioner and the first accused took place on 04.04.2021 at Marriott Hotel, Madurai. After the marriage, the complainant and the accused were residing at Soolaimedu, Chennai. From the inception of the marriage, the complainant found the different attitude of the husband accused and also found that he is not interested with his wife in the marriage life due to his impotency. Thereafter, the complainant came to know that due to his impotency, he got divorced from his first wife. Thereafter, the family of the petitioner's husband also humiliated the petitioner in various manner. After the difference of opinion, the accused husband left the home on 04.01.2022 and the petitioner gave a complaint on 15.02.2022. The case has been registered on 18.05.2022. A perusal of the complaint given by the complainant clearly stated about the non-disclosure of the impotency of the husband at the time of marriage and he made the complainant to believe that he is a competent person to live ordinary life as husband and wife without disclosing his incapacity and thereby, the accused husband deceived the complainant and made her to marry him, as though he is competent to consummate the marriage.



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6. Therefore, this Court directs the respondent Police to add the offences under Sections 417 and 420 in the case and investigate and file the final report within four months, after receiving the report from the Social Welfare Department, Madurai.

7. With the above direction, this Criminal Original Petition is disposed of.

**20.07.2022**

Index : Yes / No  
Internet : Yes/ No  
Nsr

To

1. The Inspector of Police,  
All Women Police Station,  
Thallakulam,  
Madurai City.
2. The Additional Public Prosecutor,  
Madurai Bench of Madras High Court,  
Madurai.

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**V.SIVAGNANAM, J.**

Nsr

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