

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No.829 of 2015

Devesh Singh Rajput, son of Rammilan Singh Rajput, aged about 43 years,
resident of Ramatola, Dongargarh, Police Station & Tahsil Dongargarh,
District Rajnandgaon, Chhattisgarh ... **Petitioner**

Vs.

State of Chhattisgarh, through the Station House Officer, Police Station
Dongargarh, District Rajnandgaon (Chhattisgarh) ... **Respondent**

For the Petitioner	:	Ms. Neha Verma, Advocate.
For Respondent /State:	:	Mrs. Farha Minhaj, Panel Lawyer.

HON'BLE SHRI JUSTICE GOUTAM BHADURI

ORDER ON BOARD

17/09/2015

1. This petition is against the order dated 06.07.2015 passed by the Additional Sessions Judge, Dongargarh, whereby the charges framed by the Judicial Magistrate, First Class, Dongargarh, has been affirmed.
2. Learned counsel for the petitioner submits that false and fabricated averments have been made by the complainant wife and it aggravated with filing the case for separation. It is further submitted that in order to create a ground for the divorce these false averments have been made which do not allow the framing of charge u/s 498-A IPC. It was stated that since she is working in State Government some complaint was made against her for fabrication of document, therefore, as a counter blast to it, false allegations have been levelled.
3. I have perused the statement of the complainant which is placed on record.
4. Reading of the statement of complainant shows that marriage of

complainant was performed with petitioner Devesh Singh. She has categorically stated that after marriage, the relations between them were good for some time and thereafter, the petitioner after consuming alcohol used to torture by assaulting her, demanded money for consuming liquor and even tried to kill her by cutting her veins, pouring kerosene oil and by throttling her which subsequently turned into demand of money. Therefore, on a report being made by the wife, a case was registered against the petitioner.

5. After going through the statement which is attached with the petition, it appears that the court below had opined that prima-facie offence has been stated to be made out against the petitioner.
6. The instant petition is under Section 482 of Cr.P.C., to quash the charges.
7. Hon'ble the Supreme Court has laid down the guidelines to exercise power under Section 482 Cr.P.C., and it is observed that power should be exercised sparingly, with circumspection and not on the mere asking, depending upon facts and circumstances of each case and Mini trial or roving inquiry is not contemplated. Said preposition was laid down in a case law reported in **(2015) 1 SCC 103 - Gunmala Sales Private Limited and others Vs. Navkar Promoters Private Limited and others**.
8. Further Hon'ble the Supreme Court in a case law reported in **(2014) 12 SCC 556 – Homi Rajvansh Vs. State of Maharashtra and others** has held at Para 19 that inherent powers under Section 482 of the Code are meant to do real and substantial justice, for the administration of which alone it exists or to prevent abuse of the process of the court.
9. Hon'ble the Supreme Court in case of *Homi Rajvansh (supra)* in paras 16 & 19 has held as under:

“16. It is settled law that for considering the petition under Section 482 of the Code, it is necessary to consider as to whether the allegations in the complaint prima facie make out a case or not and the Court is not to scrutinise the allegations for the purpose of deciding whether such allegations are likely to be upheld in trial.”

“19. Though the High Court possesses inherent

powers under Section 482 of the Code, these powers are meant to do real and substantial justice, for the administration of which alone it exists or to prevent abuse of the process of the court. This Court, time and again, has observed that extraordinary power should be exercised sparingly and with great care and caution. The High Court would be justified in exercising the said power when it is imperative to exercise the same in order to prevent injustice.”

10. Therefore, the statement of the complainant would show that primary allegations have been levelled against the petitioner which in the opinion of this Court, are to be tested at the floor of trial Court during evidence by virtue of examination and cross-examination.
11. Thus, considering the totality of circumstances, I am not inclined to invoke the jurisdiction under Section 482 Cr.P.C., to quash the charges framed by the court below.
12. Accordingly, the petition is dismissed.

Sd/-
GOUTAM BHADURI
JUDGE