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HIGH COURT OF CHHATTISGARH, BILASPUR**Cr.M.P. No. 740 of 2016**

1. R. Venkat Rao S/o late Shri. R. Ramchandar Rao, aged about 45 years, R/o Subham Steel Industries, Baloda Road near Railway Crossing, Akaltara, District Janjgir-Champa, Chhattisgarh.
2. R. Madhukar Rao S/o Late Shri. R. Ramchandar Rao aged about 50 years, R/o Subham Steel Industries, Baloda Road near Railway Crossing, Akaltara, District Janjgir-Champa, Chhattisgarh.
3. Smt. Rama Rao W/o R. Madhukar Rao aged about 45 years, R/o Subham Steel Industries, Baloda Road near Railway Crossing, Akaltara, District Janjgir-Champa, Chhattisgarh.
4. R. Shri Nivas Rao S/o Late Shri. R. Ramchandar Rao aged about 45 years, R/o Subham Steel Industries, Baloda Road near Railway Crossing, Akaltara, District Janjgir-Champa, Chhattisgarh.
5. Smt. Uma Rao W/o R. Shrinivas Rao aged about 37 years, R/o Subham Steel Industries, Baloda Road near Railway Crossing, Akaltara, District Janjgir-Champa, Chhattisgarh.

---- Petitioners**Versus**

1. State of Chhattisgarh through Distt. Magistrate, Bilaspur, Chhattisgarh.
2. Smt. Lalita Rao W/o Shri R. Venkat Rao, aged about 40 years, R/o in front of Jyotipur Church, Tahsil Pendra Road, District Bilaspur, Chhattisgarh.

---- Respondents

For Petitioners : Shri Ravish Verma, Advocate
 For Respondent no.1 : Shri Vaibhav Goverdhan, P.L.

Hon'ble Shri Justice P. Sam Koshy**Order On Board****15/07/2016**

The present Cr.M.P. has been preferred challenging the order dated 14.03.2016 passed in Criminal Appeal No. 83 of 2014 by the Additional Sessions Judge, Pendra Road, Bilaspur. By the said order the Sessions Judge has affirmed the order dated 02.05.2014 passed by the JMFC, Pendra Road in M.J.C. No.43/2014 whereby the JMFC had ordered for registration of a complaint against the petitioners for the

offence under Section 12 of the Protection of Women from Domestic Violence Act, 2005 (for convenience hereinafter referred as 'the Act').

2. Counsel for the petitioners submits that he is assailing the order of the JMFC as well as the Appellate Court on two grounds; firstly, the requirement under Section 12 of the Act was not fulfilled for registering the complaint by the Magistrate. Secondly, as per Section 23 (2) of the Act, there has to be a specific affidavit filed by the complainant which has not been fulfilled. Therefore, the registration of the complaint against the petitioners on the basis of these two grounds is bad in law which has not been taken care of or dealt with by the Court below while passing the impugned order.

3. However, the order dated 02.05.2014 itself very specifically stipulates that on receiving a complaint from the complainant/respondent no.2, the Court below had ordered for a report from the Project Officer under the Women and Child Development and it was only after receipt of a report from the said Officer, the Court below had ordered for registration of the complaint. Therefore, the objection of the petitioners that the requirement under Section 12 of the Act is not fulfilled does not sustain and the same is rejected.

4. So far as the requirement under Section 23 (2) of the Act is concerned, in the instant case, it is only an order of registration of the complaint under the provisions of the Act which has been passed by the JMFC on 02.05.2014 and no interim order or ex parte order has been passed which requires for filing of an affidavit. Even otherwise a perusal of the order of the Court below would show that the complainant had also filed an affidavit which has been taken note of by the Magistrate at the time of taking cognizance of the offence. Thus, the second ground by the petitioner is also not sustainable.

5. Thus, in the opinion of this Court, both the grounds raised by the counsel for the petitioners are misconceived and that the record of the Court below shows that the requirement as has been enunciated under the law had been taken care of at the time of registering of the complaint.

6. Accordingly, the instant Cr.M.P. being devoid of merit is rejected.

**Sd/-
(P. Sam Koshy)
JUDGE**