

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Miscellaneous Petition No.1005 of 2016**

Kanti Devi, wife of Ranchhor Patel, aged about 38 years, Caste Chamar, resident of Village Parasdiha, Police Station Chalgali, Tahsil Wadrafnagar, District Balrampur – Ramanujganj, Chhattisgarh

---- **Petitioner**

versus

1. State of Chhattisgarh, through the Incharge, Adim Jati Kalyan Thana, Ambikapur, District Surguja, Chhattisgarh
2. Ranchhor Patel, son of late Chandrashekhar Patel, aged about 52 years, Occupation Advocate, Resident of Village Pansara, Police Station Chalgali, District Balrampur-Ramanujganj, Chhattisgarh, At Present R/o D.C. Road, Ambikapur, District Surguja, Chhattisgarh (Accused)

---- **Respondents**

For Petitioner	:	Shri D.N. Prajapati, Advocate
For State/Respondent No.1	:	Shri Arvind Shukla, Panel Lawyer
For Respondent No.2	:	None

Hon'ble Shri Justice P. Sam Koshy

Order on Board

3.10.2016

1. The present petition under Section 482 of the Code of Criminal Procedure (Cr.P.C.) has been preferred by the Complainant assailing the order dated 5.7.2016 passed by the First Additional Sessions Judge, Ambikapur in Criminal Revision No.56 of 2015. Vide the said order, the Revisional Court has while rejecting the revision petition affirmed the order dated 17.8.2015 passed by the Chief Judicial Magistrate, Ambikapur in M.Cr.C. No.55 of 2014, whereby the Learned Chief Judicial Magistrate had rejected the complaint preferred by the Petitioner against Respondent No.2, Ranchhor Patel.
2. The brief facts leading to the filing of the present petition is that the Petitioner claiming herself to be the legally wedded wife of Respondent No.2 filed a complaint against the Respondent before

Adim Jati Kalyan Thana, which, after conducting a preliminary inquiry, closed the case as no offence was found to be made out by the police authorities in the course of investigation. Subsequently, an application under Section 156(3) Cr.P.C. was filed before the Court of the Chief Judicial Magistrate, Ambikapur by the Petitioner against Respondent No.2 seeking for cognizance to be taken against Respondent No.2 for the offence under Sections 376, 506B, 420 of the Indian Penal Code and Section 3(1)(x) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act. The Trial Court proceeded further and got the statement of the Petitioner recorded before registration of the complaint and the Trial Court treating the application under Section 156(3) Cr.P.C. as a complaint case under Section 200 Cr.P.C. of the Complainant found that no case is made out and accordingly rejected the application vide order dated 17.8.2015. While rejecting the complaint case, the Court below found various contradictions and infirmities in the statement which the Complainant had made. In the course of the rejection of the same, the Court below also found that the Petitioner/Complainant was already a married lady married to another person and there was no dissolution of the marriage that she had with the earlier husband. The Court below further in the course of rejecting the application was of the opinion that even if the entire version of the Petitioner is accepted, as she had made in the complaint as well as in her statement before the Court, what reflects is that it was the consensual relationship between the Petitioner and Respondent No.2 and the relationship was more of in the nature of live-in relationship rather than a relationship that of husband and wife duly married to each other and that the ingredients necessary for making out of offence under Sections 376, 506B, 420 IPC were not reflected in the allegations that were levelled by the Petitioner. The said order of the Chief Judicial Magistrate dated 17.8.2015 was

subjected to challenge by way of a criminal revision, i.e., Criminal Revision No.56 of 2015 before the First Additional Sessions Judge, Ambikapur. The First Additional Sessions Judge, Ambikapur, exercising his revisional jurisdiction and upon perusal of the entire facts and submissions put-forth by the Petitioner/Complainant and also on perusal of the records which were available, found the allegations levelled by the Petitioner hard to believe. The Revisional Court in the course of deciding of the revision petition reached to the conclusion that the Petitioner in fact was already married to one Arjun Prasad and there were children also born from the said marriage. It was also found that the alleged son born from the relationship of the Petitioner with Respondent No.2, namely, Umesh had filled up an application online for recruitment in the Oriental Bank of Commerce for the post of a Clerk and in the said application he had mentioned his father's name to be that of Arjun Prasad and it was not the name of Respondent No.2. Thus, there were great doubts in the case made out by the Petitioner. It was also found out by the Revisional Court in paragraph 15 of its judgment that the Petitioner while moving an application for grant of a caste certificate in the office of Tahsildar, Wadrafnagar dated 20.5.2005 had mentioned her husband's name to be Hiralal. Further, the Revisional Court also took note of the entire conduct of the Petitioner that was reflected in the course of recording of the statement at the time of registration of the complaint and the other materials which were collected either in the course of police investigation or from the documents which were referred to in the investigation report of the police authorities.

3. Learned Counsel for the Petitioner assailing the two impugned orders submitted that both the Courts below have passed the orders in a mechanical manner without properly appreciating the statements of the Complainant/Petitioner. According to the Counsel, at the time of

registration of the complaint, all that the Court below ought to have taken note was that of whether from the statement a cognizable offence is made out against the accused person or not, which, in the instant case, was made out and, therefore, the Court below should not have rejected the complaint.

4. Having considered the submissions put-forth by Learned Counsel for the Petitioner and on perusal of the record, this Court also finds that the Petitioner has not been able to give any plausible explanation of the finding arrived at by the Revisional Court and that there was also no proper explanation given by the Petitioner in respect of her marriage with Arjun Prasad, from whom the children were also born. In the given facts and circumstances of the case, this Court is of the opinion that the two Courts below have not committed any illegality or infirmity while reaching to the conclusion that the alleged complaint made by the Petitioner was not worth taking cognizance of.
5. Thus, for the foregoing reasons, this Court does not find any strong case made out by the Petitioner calling for any interference with the two orders. Neither is there any illegality or infirmity nor can the two orders be said to be perverse or contrary to the evidence.
6. For the foregoing reasons, the criminal miscellaneous petition deserves to be and is dismissed.

Sd/-

(P. Sam Koshy)
Judge