

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****CRMP No. 957 of 2014**

1. Sanjeev Deep Tiwari S/o . Shri Vishnu Deep Tiwari Aged About 52 Years R/o. Mig/87, Darpan Colony, Badhipur, Gwalior, P.S. Murar, Distt. Gwalior (M.P.)
2. Smt.Saroj Tiwari W/o . Shri Sanjeev Dep Tiwari Aged About 51 Years R/o. Mig/87, Darpan Colony, Badhipur, Gwalior, P.S. Murar, Distt. Gwalior (M.P.)

---- Petitioners**Versus**

1. State Of Chhattisgarh Through: The Distt. Magistrate Distt. Bilaspur (C.G.)
2. Smt. Pratima Tiwari, W/o Swetang Tiwari, D/o K.K. Trivedi, aged about 24 years, R/o Devnandan Nagar, Phase – I, Sarkanda, Bilaspur, Distt. - Bilaspur (C.G.)

---- Respondents

For Petitioners	: Mr. Rupesh Shrivastava, Advocate
For State / Respondent-1	: Mr. R.K.Gupta, Dy. Advocate General
For Respondent – 2	: Mr. R.R. Sinha, Advocate

Hon'ble Shri Justice Manindra Mohan Shrivastava**Order On Board****18/11/2016**

Heard.

1. This petition under Section 482 of the Cr.P.C. has been filed by the petitioners-accused for quashment of criminal proceeding against them on the basis of complainant made by their daughter-in-law for harassment and cruelty in connection with demand of dowry, pending in the Court of JMFC, Bilaspur.
2. Respondent No.2 lodged FIR against the petitioners and her husband Shri Swetang Tiwari on 20.08.2012 in Police Station, Sarkanda, District – Bilaspur. In the complaint, in writing, it was stated that she has been harassed and subjected to cruelty by her father-in-law, mother-in-law and husband in connection with demand of dowry. On the basis of said written report, Police registered offence under Section 498-A of the IPC against the

petitioners and accused – Swetang Tiwari, son of the petitioners. This petition under Section 482 of the Cr.P.C. has been preferred by the petitioners seeking quashment of the criminal case on the ground that as against the petitioners, proceedings are abuse of the process of law. It is submitted that allegations leveled against the petitioners by respondent No.2 are wholly false, improbable and made only when son of the petitioners filed an application for restitution of conjugal rights in the Family Court at Gwalior, in which notices were issued to respondent No.2 on 22.12.2011. The notices were received by respondent No.2 in the month of January itself and 7 months thereafter, respondent No.2, only in order to counter allegations in the petition for restitution of conjugal rights, lodged FIR in the police station on after thought grounds. If at all the petitioners had committed any offences, nothing prohibited respondent No.2 to lodge report. Even according to her statement, she had gone back from her matrimonial house to her parental house on 29.09.2009. The allegation that after sometime her husband followed and mother-in-law and father-in-law also came to reside with her in the parental house, is highly improbable and completely after thought. It is also submitted that even according to respondent No.2, after various disputes, the petitioners started residing in a separate house which shows that there was no involvement of the petitioners in the alleged commission of offence and long after the institution of civil proceedings, criminal case has been registered. If it is allowed to continue, would cause harassment to the petitioners. Reliance has been placed on **Swapnil and others vs. State of Madhya Pradesh (2014 AIR SCW 6056)**.

3. On the other hand, learned counsel for the respective respondents submit that from the FIR, diary statement of the complainant – wife and statements of other prosecution witnesses, a prima-facie case is made out against the petitioners. The submission made before this Court are that defence of the petitioners would be considered at the stage of trial and not in this petition. It is submitted that if the allegations contained in the FIR, diary statement are taken on their

face value, criminal case under Section 498-A of the IPC are made out and therefore, in these circumstances, the petition is liable to be dismissed.

4. In the written report, FIR, diary statement there are allegations of the involvement of the petitioners. In the written report, while it is alleged against the petitioners that they are also involved, in the diary statement under Section 161 of the Cr.P.C. it is alleged that the mother-in-law did not return the jewellery of the complainant saying that her father has assured to give Rs. 1,50,000/- at the time of marriage ceremony and the jewellery shall be returned only after giving of that amount. She states that on that day, her mother-in-law and father-in-law stayed and raised voice scolding as to what was given by her father and that it would have been better that marriage would have been settled elsewhere and they would have got good dowry. It is also stated in her diary statement that when the complainant came back to parental house her husband also came and started living and petitioners also arrived in the same house and started living in that house and pressurized her family members to get property documents written in the name of her husband and quarrelled with her father. Later on, the mother-in-law and father-in-law left the house and started living separately. The allegations of demand of dowry and harassment by mother-in-law and father-in-law have been supported by the diary statements of Kishore Trivedi, Smt. Archana Kadegar, Poonam Trivedi and Kumari Veena Trivedi.
5. It is submitted that FIR was lodged belatedly after civil case for conjugal right was initiated, may raise some doubt, but ultimately it would be a matter of appreciation of evidence whether the prosecution story is liable to be believe or disbelieved. However, if the statements are taken on their face value, taking into consideration that harassment in connection with demand of dowry and mental cruelty is also included as ingredients of Section 498-A of the IPC, I find that at this stage, criminal case cannot be quashed in exercise of inherent jurisdiction under Section 482 of

the Cr.P.C. therefore, the petition is dismissed. Decision in the case of **Swapnil and others (supra)** is distinguishable on facts.

6. Before parting with the case, it is made clear that this Court has made observation, only for the limited purpose whether a case of quashment of criminal proceeding is made out or not. The observation should not be treated by the trial Court, as finding one way or other in favour or against the accused and the trial Court, without being influenced of the observation made by this Court decide the case on the basis of evidence that may be produced before it.

Sd/-
(Manindra Mohan Shrivastava)
Judge