

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

W.P.(CR.) No. 309 of 2016

1. Nan Bai Kashyap, W/o. Late Narayan Prasad Kashyap, Aged About 58 Years, (Mother-in-law)
2. Santosh Kumar Kashyap, S/o. Late Narayan Prasad Kashyap, Aged About 24 Years (Devar),
Petitioner No.1 and 2 are R/o. B.D. Mahant U. P. Nagar Janjgir, New Chandaniyapara, Ward No. 06, P.S. & Tehsil Janjgir, Revenue & Civil District Janjgir Champa (Chhattisgarh).
3. Jai Kumari, W/o. Nokh Ram Kashyap, Aged About 32 Years (Nanand), R/o. Kukda, Tehsil Nawagarh, P. S. Shivrinarayan, Revenue & Civil District Janjgir Champa (Chhattisgarh)
4. Shail Kumari Kashyap, D/o. Late Narayan Prasad Kashyap, Aged About 38 Years (Nanand), R/o. B. D. Mahant U. P. Nagar Janjgir, New Chandaniyapara, Ward No. 06, P. S. & Tehsil Janjgir, Revenue & Civil District Janjgir Champa (Chhattisgarh)

---- Petitioners

Versus

1. State Of Chhattisgarh, Through Secretary Department Of Home Affairs (Police), Mahanadi Bhawan, Naya Raipur, District Raipur (Chhattisgarh)
2. Superintendent Of Police, Bilaspur, District Bilaspur (Chhattisgarh)
3. Station House Officer, Police Station Gaorela, District Bilaspur (Chhattisgarh)
4. Smt. Neha Kashyap (Before Marriage Known As, Neha Sahu), (Wife), W/o. Sheshnath Kashyap, D/o. Rajendra Kumar Sahu, Aged About 31 Years, R/o. Nadi Road, Nayapara Durg, Tehsil Durg, Revenue & Civil District Durg (Chhattisgarh).
5. Sheshnath Kashyap, S/o. Late Narayan Prasad Kashyap, Aged About 32 Years (Husband), Occupation Service, Working As Assistant Grade- III, Tehsil Office Baloda Bazar, District Baloda Bazar (Chhattisgarh)

-----Respondents

For Petitioners : Mr. Surfaraj Khan, Advocate
For Respondent/State : Mr. Ashish Shukla, Govt. Advocate
For Respondent No.4 : Mrs. Usha Chandrakar, Advocate

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

04/10/2017

Heard.

1. It is submitted by the counsel for the petitioners that respondent No.5 is son of the petitioner No.1 and brother of petitioners No.2 to 4. Respondent No.4 and respondent No.5 have performed marriage under the provisions of Special Marriage Act and are living separately since 2014. Respondent No.4 and 5 have never resided with the petitioners after their marriage, even then one FIR has been lodged by the respondent No.4 against the petitioners alleging that they have demanded dowry from her on the basis of which offence under Section 498A read with Section 34 of Indian Penal Code has been registered by the Police Station – Gourela in Crime No.264/2016. Hence this petition.
2. It is submitted by the counsel for the petitioners that in view of the judgment passed by the Hon'ble Supreme Court in case of Rajesh Sharma & Ors. Vs. State of U.P. and another, in Criminal Appeal No.1265/2017 dated 27.07.2017, wherein various directions have been given by the Hon'ble Supreme Court which has to be complied with, before taking any action or making any investigation in complaint for offence under Section 498A of Indian Penal Code, hence it is prayed that direction may be issued accordingly and the petition may be disposed off.
3. Counsel for the respondents/State has no objection if the petition is disposed off with direction.
4. Counsel for the respondent No.4 objects to the petition and the submission made and it is submitted that respondent No.4 is

interested to prosecute the petitioners.

5. I have heard the learned counsel for the parties and perused all the documents placed on record.
6. As submitted, the complaint against the petitioners is still under investigation. Keeping in view the directions of Hon'ble Supreme Court in case of Rajesh Sharma (Supra), the respondent police authorities are duty bound to comply with the directions. Similarly the respondent authorities are also duty bound to follow the directions given by the Hon'ble Supreme Court in case of ***Arnesh Kumar Vs. State of Bihar***, reported in **2014 (8) SCC 273**. Looking to the specific direction issued by the Hon'ble Supreme Court for dealing the complaint for offence under Section 498A of I.P.C., it appears that this petition can be disposed off with suitable direction.
7. Accordingly, This petition is allowed at the motion stage. Respondent police authorities are directed to comply with the direction issued by the Supreme Court in case of Rajesh Sharma & Ors. Vs. State of U.P. & Anr. (supra) and in case of Arnesh Kumar Vs. State of Bihar (supra) regarding arrest of the accused person to be made after specific compliance of the direction given and proceed accordingly.
8. Accordingly, petition stands disposed off.

Sd/-
(Rajendra Chandra Singh Samant)
Judge