

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CR.M.P. No. 106 of 2017

Sunita Pandey, W/o. Late Shri S.P. Pandey, Aged About 42 Years, R/o. Sichai (Irrigation) Colony, Police Station Durg, Civil and Revenue District Durg Chhattisgarh.

---- Petitioners

Versus

1. State Of Chhattisgarh, Through : Station House Officer, Police Station Civil Line Bilaspur, Civil and Revenue District -Bilaspur Chhattisgarh
2. Sudha Tiwari @ Babita, C/o. Suresh Kumar Joshi, R/o. Beside Karmal School, Near Makhan Plot, Tilda, Police Station : Tilda, District Raipur Chhattisgarh.

-----Respondents

For Petitioner	: Mr. Vinod Tekam, Advocate
For Respondent/State	: Mr. Ashish Shukla, Govt. Advocate
For Respondent No.2	: Mr. Amit Kumar Sahu, Advocate

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

10/10/2017

Heard.

1. This petition has been filed under Section 482 of Cr.P.C. with a prayer to quash the charge-sheet filed against the petitioner before the Court of Chief Judicial Magistrate, Bilaspur, which has been registered as Criminal Case No.5665/2016.

2. It is submitted by the counsel for the petitioner that petitioner is aunt of complainant - Smt. Sudha Tiwari, the respondent No.2. On the basis of the FIR lodged by the respondent No.2, Police Station Civil Line, has registered offence under Section 498-A/34 of the Indian Penal Code against the petitioner and other co-accused persons. The matter has been investigated and charge-sheet has been filed, in which the petitioner is also arrayed as an accused. It is submitted that on going through the contents of the FIR, it is apparent that it was alleged by the complainant that petitioner was mediator for this marriage, who suppressed various facts in her knowledge, because of which, the complainant is in trouble and thereafter she has never come forward to help the complainant. It is submitted that in the statement under Section 161 of Cr.P.C., the complainant has made similar statement holding the petitioner responsible for the marriage, because of which, the complainant is in trouble. No witness in this case has made statement against the petitioner, hence it is prayed that the criminal proceedings against the petitioner is purely an abuse of process of law. Prayer has been made for exercise of inherent jurisdiction of this Court.
3. Counsel for the petitioner has placed reliance on the judgment of Supreme Court in case of ***Preeti Gupta and Another Vs. State of Jharkhand & Another***, reported in ***(2010) 7 SCC 667*** and in case of ***Rajesh Sharma & Ors. Vs. State of U.P. & Another***, reported in ***2017 (3) C.G.L.J. 573 (SC)***, in which it was held that there is tendency to implicate the relatives of the husband, who have no direct connection with the affairs that take place in the matrimonial

house of the complainant concerned. Similar view has been expressed by the Supreme Court in case of Rajesh Sharma Vs. State of U.P. (supra).

4. Counsel for the State submits that the case is pending before the trial Court and the petitioner has entitlement to contest this case and disprove the allegation against him. It is also submitted that prima-facie case is made out against the petitioner.
5. Counsel for the respondent No.2 has adopted the arguments of the counsel for the State and submitted that no case is made out against the petitioner, hence this petition be dismissed.
6. I have heard the learned counsel for the parties and perused the documents placed on record.
7. On perusal of the copies of the documents of the charge-sheet, it is apparently clear, that only statement against the petitioner is this that she being the aunt of the complainant, mediated to settle the marriage of complainant with co-accused her husband and thereafter, she never took care of the welfare of the complainant. Charge-sheet has been filed specifically for offence under Section 498-A/34 of the Indian Penal Code, which is a matrimonial offence, in which the offenders usually are the husband and the relatives of the husband. Although it is mentioned that the petitioner is related to in-laws of the accused persons in this case, but for that reason alone, she can not be roped in this prosecution case, without there being any specific statement about meting out cruelty or making any demand of dowry from the complainant or her parents. Hence for

these reasons, this appears to be a case, in which the prosecution of petitioner, before the trial Court for offence under Section 498-A of I.P.C. is clear abuse of process of law. Hence this petition is allowed at the motion stage. The proceedings of Criminal Case 5665/2016, pending before the Court of Chief Judicial Magistrate, Bilaspur, arising out of the Crime No.781/2015, registered at Police Station – Civil Lines, Bilaspur, District – Bilaspur for offence under Section 498-A/34 of Indian Penal Code so far as it relates to the petitioner, is hereby quashed. The petitioner is acquitted of the charges.

8. Accordingly, the petition stands disposed off.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Balram