

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 626 of 2016

1. Tribhuwan Agrawal, S/o. Jagdish Prasad Agrawal, Aged About 37 Years, R/o. Gulab Nagar Devpuri, Agrawal Enterprises, Shyam Nagar Road, Netaji Chowk, Katora Talab Raipur, Police Station Tikrapara Raipur, Tahsil Raipur, Civil & Revenue District Raipur, Chhattisgarh.
2. Jagdish Prasad Agrawal, S/o. Late Shri S.P. Agrawal, Aged About 65 Years, Occupation Private Service, R/o. Ward No. 21, Shitli Naka Infront Of Cultural Building, Mahasamund, Police Station & Tahsil Mahasamund, Civil & Revenue Distt. Mahasamund, Chhattisgarh

---- Applicants

Versus

Smt. Pratibha Agrawal, W/o. Tribhuwan Agrawal, Aged About 36 Years, Occupation Service, R/o. Turi Hatri, Purani Basti Raipur, At Present National Institute Of Technology (N.I.T.), G.E. Road, Opposite Science College Raipur, Police Station Sarswati Nagar, Tahsil Raipur, Civil & Revenue District Raipur, Chhattisgarh.

---- Respondent

For Applicants : Mr. Ratnesh Kumar Agrawal, Advocate

For Respondent : Mr. Adhiraj Surana, Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

26.10.2017

Heard

1. The present petition is filed against the order dated 24.05.2016 wherein the registration of the complaint under Section 6 of the Dowry Prohibition Act, 1961 (*for short "the Act, 1961"*) was upheld by the Third Additional Sessions Judge, Raipur in Criminal Revision No.368/2015.
2. Learned counsel for the applicant submits that in order to sustain a complaint under Section 6 of the Act, 1961, the rules mandate that the list of the articles should have been filed alongwith the complaint, therefore, it would be mandatory and in absence of that the complaint cannot be sustained. It is further contended that general omnibus allegations have been made in respect of the

father-in-law that he used to come to the place for demand of dowry and admittedly the husband & wife are living separately; therefore, the registration of crime against the father-in-law is also bad in law, as such, the complaint cannot be sustained in the eyes of law and required to be quashed on the threshold.

3. Learned counsel for the respondent opposes the argument advanced by the learned counsel for the applicant.
4. In Section 3 of the Act, 1961 reference to the goods/ article is made in sub-Section (2). It purports the presents which are given at the time of a marriage to the bride if are maintained in the list, it will not be included for the purpose of consideration of the demand of 'goods' under Section 3 of the Act, 1961. Section 7 of the Act, 1961 says about the cognizance of offences, which reads out that the complaint can be maintained by a person aggrieved by the offence or the parents or other relatives of such person etc.
5. In the instant case, the complaint has been filed by Smt. Pratibha Agrawal who is wife of applicant No.1 Tribhuwan Agrawal and the applicant No.2 Jagdish Prasad Agrawal is father-in-law. Reading of the complaint, which is filed alongwith the petition would show that the joint allegations have been attributed to the applicants that the respondent was pressurized the complainant to bring dowry from in-laws. The argument advanced by the applicant that the complaint should contain the list of the presented goods in absence thereof the complaint would not be maintainable is misconceived in view of Section 3 of the Act, 1961.
6. Section 3 of the Act, 1961 postulates that in respect of the goods which are presented to the bride at time of marriage and if a list is maintained then in such case the same cannot be enveloped

within the definition of goods to consider them as demanded articles/goods. Admittedly, in this case, the list of gifted articles were not prepared during marriage, therefore, it cannot be laid down that in absence of list of the goods, which were presented during the marriage the complaint under Section 6 would not lie. In respect of the averments of the complaint, at this stage, the Court cannot give a finding that the averments whether are being correctly made or not, it can be tested at the floor of Court during evidence.

7. In forming the opinion whether the criminal complaint should be quashed at the threshold in exercise of power under Section 482 of Cr.P.C. by evaluating the evidence, this Court is of the opinion that the ends of justice would justify the non exercise of power under Section 482 of Cr.P.C. as it would lead to abuse of process of Court. Consequently, the petition has no merit and accordingly it is dismissed.

Sd/-
(Goutam Bhaduri)
Judge