

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 1254 of 2016

1. Smt. Parvati Dewangan, W/o Late Shri Kunjilal Dewangan, aged about 60 years.
2. Vijay Kumar Dewangan, S/o Late Shri Kunji Lal Dewangan, aged about 42 years .
3. Santosh Dewangan, S/o Shri Kunji Lal Dewangan, aged about 37 years.
4. Danish @ Alias Daneshwar Dewangan, S/o Kunjilal Dewangan, aged about 34 years.
5. Laxmikant Dewangan, S/o Kunjilal Dewangan, aged about 32 years.
6. Lokesh Kumar Dewangan, S/o Kunjilal Dewangan, aged about 30 years.

All are residents of New Ganj Mandi Road, Near Ganesh Bhawan, Pandri Tarai Tehsil & District Raipur, Chhattisgarh, Civil & Revenue District Raipur, Chhattisgarh.

---- Petitioners

Versus

- State Of Chhattisgarh Through Station House Officer, Police Station Mahila Thana, Civil & Revenue District Raipur, Chhattisgarh.

---- Respondent

For Petitioners	:	Shri Rajesh Singh, Advocate
For Respondent	:	Shri Rahul Tamaskar, Panel Lawyer.

Hon'ble Shri Justice Pritinker Diwaker

Order On Board

14/02/2017

1. Heard on admission.
2. The petitioners have filed this petition under Section 482 Cr.P.C. impugning the order dated 2.7.2016 passed by the Additional Sessions Judge (Special Judge of Special Court for trial of CBI Cases), Raipur in Criminal Revision No.121/2016 affirming the order dated 5.2.2016 passed by the Judicial Magistrate First Class, Raipur in Criminal Case No.15940/14 whereby the trial Judge has framed the charge under Section 498A/34 of the Indian Penal Code against the petitioners herein

3. Facts of the case, in brief, are that the marriage of petitioner No.4 was solemnized with the complainant on 19.2.2007. As the complainant was subjected to cruelty and torture by the petitioners, on 26.8.2011 a written complaint was made by her to the Superintendent of Police, Raipur making allegation against the husband and other in-laws of the complainant of subjecting her to cruelty and torture for demand of dowry during her stay with her husband and at her in-law's place. Based on this written report, FIR under Section 498A/34 IPC was registered against the petitioners and after completion of investigation, charge sheet has been filed against them. The committal Court vide order dated 5.2.2016 framed the charge under Section 498A/34 IPC against the petitioners. Feeling aggrieved therewith, the petitioners have preferred a criminal revision before the revisional court and the same has also been dismissed by the revisional Court holding that the committal Court was justified in framing the charge under Section 498A/34 IPC against the petitioners. Hence this petition.
4. Counsel for the petitioners submit that in the present case the complainant is using the provision of Section 498A IPC as a weapon rather than a shield. According to him, there is absolutely no truth behind the allegation that the petitioners ever subjected the complainant to cruelty for any demand of dowry or for any other reason. He further submits that infact it is petitioner No.4 (husband of complainant) who was subjected to torture & cruelty and therefore the suit filed by him seeking divorce has been decreed by the Court below concerned vide judgment & decree dated 20.10.2015. He further submits that earlier also the complainant has made a complaint against the petitioners at Rajnandgaon and when no action was taken on it, she has filed the present complaint at Raipur. He further submits that the complainant is not even willing to take part in the counselling process which clearly shows that by one way or other, she wants to falsely implicate the petitioners. He further submits that since the allegation of subjecting the complainant to cruelty by the petitioners had not been substantiated, prima facie, there was no case for framing charge against the petitioners and therefore the order framing charge against the petitioners is liable

to be quashed.

5. On the other hand, supporting the impugned order it has been argued by counsel appearing on behalf of the State that statement of the complainant was fully supported by the witnesses examined by her which clearly makes out a *prima facie* case of alleged offence against the petitioner. He further submits that the petitioners are at liberty to raise all those grounds, as urged by them in this revision, during the course of trial.
6. I have heard counsel for the parties and perused the impugned orders.
7. The Magistrate concerned, after examining the complaint and the statements of the complainant & witnesses recorded under Section 161 CrPC found that the material brought on record *prima facie* disclosed commission of offence and he was satisfied that there were reasons to proceed against the petitioners and accordingly framed the charge against them vide order dated 5.2.2016 which has been subsequently affirmed by the revisional Court vide order impugned. There does not appear any perversity in the concurrent findings recorded by both the Courts below requiring interference by this Court in exercise of powers vested in it under Section 482 Cr.P.C.
8. In the result, the petition has no substance, the same is liable to be dismissed and is hereby dismissed at the admission itself. However, it is made clear that any observation made in this order shall not come in the way of the Court while conducting the trial.

Sd/-
(Pritinker Diwaker)
Judge

roshan