

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Revision No. 156 of 2018**

1. Aniket Limje S/o. Rajendra Kumar Limje, aged about 28 years,
2. Rajendra Kumar Limje S/o Late Shri Salikram Limje, aged about 54 years,
3. Smt. Saroj Limje, W/o Rajendra Kumar Limje, aged about 48 years,
4. Rishikesh limje, S/o Rajendra Kumar Limje, aged about 27 years,

All are R/o Plot No. E/08, Sadak No.3, Aashish Nagar, West Resali, Bhilai, Tahsil & District- Durg (C.G.).

--- Applicants**Versus**

1. State of Chhattisgarh, Through District Magistrate Durg, District- Durg (C.G.).
2. Smt. Monika Limje W/o Aniket Limje, aged about 25 years, R/o through Chetan Dewangan, House No. 78, Motipara, Durg, District- Durg (C.G.).

---- Respondent

For Applicant	:	Mr. Atanu Ghosh, Advocate
For Respondent No.1.	:	Mr. Sumit Jhanwar, PL
For Respondent No.2	:	Mr. P.R. Patankar, Advocate

Hon'ble Shri Justice Arvind Singh Chandel

Order on Board**07/08/2018**

1. With the consent of both the parties, the matter is heard finally.
2. Being aggrieved by the impugned order dated 01/11/2017 passed by the 4th Additional Sessions Judge, Durg, District- Durg in Criminal Appeal No. 99/2017 arising out of order dated 03/04/2012 passed by the Judicial Magistrate First Class, Durg passed in Criminal Case No.

1077/2016, this revision has been preferred.

3. Facts of the case are that respondent No.2 is wife of the applicant No.1. Applicants 2 & 3 are the parents and applicant No. 4 is the brother of applicant No.1. On 18/10/2016, respondent No. 2 filed a petition/application under Section 12 read with Section 20 & 22 of the Protection of Women from Domestic Violence Act, 2005 (henceforth 'the act of 2005') against the present applicants alleging that the marriage between her and applicant No.1 had taken place on 18/01/2016 and after marriage, the applicants used to harass respondent No.2 for demand of dowry. After receiving notice, the applicants filed an application under Section 203 of the Cr.P.C for disposed of the complaint/application on the ground that the complaint has been filed on the same set of fact and one criminal proceeding has also been initiated. After hearing both the parties, the application submitted under Section 203 Cr.P.C has been dismissed by the learned JMFC. An appeal was preferred against the said order before the Appellate Court and the Appellate Court also affirmed the order of JMFC. Hence, this revision.
4. Learned counsel appearing on behalf of the applicants submit that the learned Court belows have not appreciated that respondent No.2 has instituted a criminal proceeding against the present revisioners under Section 498-A of the IPC and Sections 4 & 5 of the Prohibition of Dowry Act on the same set of facts, therefore, there is bar under Section 300 of the Cr.P.C that one person cannot be prosecuted twice for the same offence. He further submits that the applicants are facing two criminal proceedings on the same set of facts which amount to

double jeopardy and the same is not acceptable in the eye of law. Therefore, the orders passed by both the Courts below is not correct and deserve to be quashed.

5. Learned counsel appearing on behalf of applicant No.2 submits that Section 3 of the Act, 2005 is very exhaustive and covers so many instances of domestic violence, which are not in purview of the Section 498-A of the IPC. In so far as provision of grant of maintenance and compensation is concerned, remedy provided in Act of 2005 is an alternative remedy and in addition to the existing remedies, hence, it cannot be said to be an instance of abuse of process of law, if wife approached in different forums for redressal of grievances against the husband. Reliance has been placed upon **LAWS (MPH) 2013 1 279, High Court of Madhya Pradesh in Sirajuddin Khan @ Siraj, Jamaluddin Khan v. Shahnaz Firdous.**
6. I have learned counsel for the parties.
7. According to Section 20 (d) of the Act 2005, the maintenance for aggrieved persons as well as for her children, if any, includes an order or in addition to an order of maintenance under Section 125 Cr.P.C or any other law for the time being in force. Meaning thereby that under Section 12 of the Act of 2005 nothing prevents the Judicial Officer to consider for monetary reliefs in favour of lady, who has already granted maintenance under Code of Criminal Procedure or any other law prevailing at the relevant time.
8. According to Section 31 of the Act of 2005, Magistrate may also frame charges under Section 498-A of the IPC or any other provision of that

Code or the Dowry Prohibition Act, if sufficient material has come on record in case of Domestic Violence Act. Meaning thereby proceedings under Section 498-A IPC and proceedings under Domestic Violence Act can go together simultaneously. In view of the clear provisions under the Act of 2005 itself, it cannot be said to be an instance of double jeopardy if different cases like trial of offence under Section 498-A IPC, matter of award of maintenance under Section 125 Cr.P.C and case of Domestic Violence Act, 2005 are going together simultaneously between the couples in respective courts.

9. Taking over all facts and circumstances of the case into consideration, it reveals that both the Courts below has rightly relied on the case of Sirajuddin (Supra). Therefore, I do not find any merits in this Case.
10. Accordingly, the revision is dismissed.

Sd/-
(Arvind Singh Chandel)
Judge