

NAFR

**HIGH COURT OF CHHATTISGARH, BILASPUR****CRMP No. 1011 of 2017**

1. Baburam Bhandari S/o Keshavraj, Aged About 37 Years
2. Krishna Prasad S/o Keshavraj, Aged About 30 Years
3. Keshavraj S/o Late Mitralal Aged About 76 Years
4. Manju Bhandari, D/o Keshavraj Aged About 25 Years

No.1 to 4 are R/o Qtr. No. Type- 2, D.S. 448, Infront Of S B I, Kirandul,  
Police Station Kiranudl, Distirict Dantewada, Chhattisgarh

5. Vishnukala Ghimere W/o Omnarayan Kandel, Aged About 42 Years
6. Omnarayan Kandel S/o S.L. Kandel, Aged About 46 Years

No. 5 & 6 are R/o Kirandul District Dantewada, Chhattisgarh

7. Sushila Ghimere W/o Anand Ghimere Aged About 34 Years R/o Bangalore ,  
Karnataka

**---- Petitioners****Versus**

1. State of Chhattisgarh Through Police Station Kirandul District- Dantewada,  
Chhattisgarh
2. Kamal Bhandari D/o Late Satyadev Gupta, R/o Kirandul District Dantewada,  
Chhattisgarh

**---- Respondents**


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|----------------------|---|---------------------------------------------|
| For Petitioners      | : | Shri Yogeshwar Sharma, Advocate             |
| For Respondent/State | : | Shri Sangharsh Pandey, Dy. GA for the State |
| For Respondent No.2  | : | Shri Rohit Sharma, Advocate                 |

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**Hon'ble Shri Justice Goutam Bhaduri****Order On Board****29/06/2018**

1. Heard.
2. The present petition is against the registration of the FIR on the direction of

the JMFC, Bacheli, District Dantewada dated 19.04.2017.

3. Learned counsel for the petitioners submits that the registration of the FIR itself is bad and no cognizable offence can be registered against the petitioners as the complaint is about the matrimonial dispute. He further submits that without any filing of the affidavit cognizance under Section 156 (3) Cr.P.C. was taken by the Court and the document filed in this petition would reveal that preliminary enquiry was carried out by the police and it found that no offence is made out, therefore, the entire process of registration of the FIR is bad in law.
4. Per contra, learned counsel for the respondents vehemently opposed the arguments advanced by learned counsel for the petitioners and submit that the nature of the complaint would show that respondent No.2 was subjected to cruelty & harassment under Section 498 A IPC for demand of dowry and was subjected to physical assault, therefore, when the complaint was made to the police, the police was dormant. Subsequently, the application was filed before the learned JMFC, wherein a report was called for from the police and the registration of FIR was also directed for. They further submit that the order-sheet of the Court below would show that the petition under Section 156 (3) Cr.P.C. was filed along with the affidavit, therefore, this finding can be arrived at by the Court below and at this stage the entire challenge by the petitioners to the registration of the FIR is premature. They further submit that even for the sake of arguments it is admitted that the affidavit was not attached even then that can be cured subsequently and the victim cannot be deprived for the reason that the affidavit was not attached which would arise at a subsequent stage.
5. Perusal of the order-sheet of the Court below would show that on

29.12.2016 an application under Section 156 (3) Cr.P.C. was filed, wherein the Court has recorded that the complainant has preferred the petition along with the affidavit. Thereafter, the order-sheet of the Court would show that the report from the police was called for and investigation was ordered. Perusal of the order-sheet would show that till date no notices were issued to the petitioners and the Court directed for registration of the FIR and called for the final report, therefore, it appears that the petitioners have approached to the Court before the stage of issuance of process. Consequently, following the law laid down by the Supreme Court in the matter of ***HDFC Securities Ltd. and others Vs. State of Maharashtra and another {AIR 2017 SC 61}*** wherein the Supreme Court has held that the order directing investigation by the police cannot be said to have caused injury of irreparable nature, which requires quashing of the investigation. It further observed that the stage of cognizance would arise only after the investigation report is filed before the Magistrate. Therefore, it is open for the prosecution to file the report before the Magistrate, which may also include the preliminary enquiry made out.

6. In a result, the petition is premature. It is accordingly dismissed.

Sd/-

Goutam Bhaduri  
Judge

Ashu