

**HIGH COURT OF CHHATTISGARH, BILASPUR**

**Order reserved on: 04/07/2018**

**Order delivered on: 23/07/2018**

**CRMP No. 1326 of 2017**

1. Pradeep Verma S/o S/o Shri Ramesh Prasad Verma Aged About 32 Years Occupation Private Job, R/o Sangram Singh Dafai, Dhanpuri, Tahsil Budhar, District Sahadol, Madhya Pradesh., Madhya Pradesh
2. Ramesh Prasad Verma S/o Shri Tejilal Verma Aged About 60 Years R/o Sangram Singh Dafai, Dhanpuri, Tahsil Budhar, District Sahadol, Madhya Pradesh., District : Shahdol, Madhya Pradesh

**---- Petitioners**

**Versus**

- Renu Verma W/o Pradeep Kumar Verma Aged About 30 Years Occupation- Service, R/o Kelovihar Colony, Raigarh, Chhattisgarh., Chhattisgarh

**---- Respondent**

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| For Petitioners | : | Shri Ravish Verma, Advocate.                                 |
| For Respondent  | : | Ms. Juhi Jaiswal on behalf of Mr. Kishore Bhaduri, Advocate. |

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**Hon'ble Shri Justice Rajendra Chandra Singh Samant**

**CAV Order**

**23/07/2018**

1. This petition has been brought under Section 482 of Cr.P.C. with a prayer to quash the proceedings against the petitioners initiated in complaint Case No..41/2016 under Sections 498(A), 406 & 323/34 of Indian Penal Code (for short 'IPC') and Section 3 & 4 of Dowry Prohibition Act, 1961, pending before the Court of Judicial Magistrate First Class, Raigarh.
2. Learned counsel for the petitioner submits that no offence is made out against the petitioners for the reason that the marriage of complainant and petitioner No.1 was dissolved by the judgment dated 29.6.2016 by the competent Court,

hence, after this separation no grievance could exist between the parties regarding the demand of dowry. Even no complaint was earlier made by the respondent/complainant to any of the authorities about cruel treatment for demand of dowry and other offences. It is also submitted that Section 41 (2) of CrPC has not been complied with while taking cognizance of the case against the petitioners. As general and vague allegations have been made by the complainant without there being any specification and other evidence to support the same, therefore, the order taking cognizance passed by the concerned Court is liable to be quashed.

3. Respondent/complainant had left her matrimonial home on 2.6.2009 and the decree of divorce that was obtained from the Court was under Section 13(b) of the Hindu Marriage Act, 1955 on the basis of mutual consent of the parties, which means that the dispute between the parties were amicably settled. Thus, the cause of action that was available to the respondent had expired much before the order of taking cognizance passed by the Court below. Therefore, the complaint was not entertainable being beyond limitation, hence, it is prayed that the impugned order and the complaint case registered against the petitioner be quashed.
4. Learned counsel for respondent submits that the respondent had made allegation against the petitioner from the very beginning. The respondent was compelled to leave her matrimonial home in the year 2009 but the efforts went on continuously for settlement till the year 2011 and only because the decree of divorce was passed by mutual consent, it does not affect the right of the respondent to prosecute the petitioners in criminal jurisdiction. Reliance is placed on the judgment of the Supreme Court of in the matter of ***Arnit Das Vs. State of Bihar*** reported in ***2001 (2) SCC 17*** and ***Amit Kapoor Vs. Ramesh Chander*** reported in ***2012(9) SCC 460***. Ultimately, it has been prayed that the petition be rejected.

5. Heard both the parties and perused the documents on record.
6. Considered on the submissions made and the documents placed on record. It is not in dispute that the respondent left her matrimonial home in the year 2009, and no effort was made on behalf of the petitioners' side to come to any settlement. Respondent filed the divorce petition bearing Civil Suit No.79A/12 before the Family Court, Raigarh, in which she made allegations that she had left the house only because of demand of dowry and when all the attempts of settlement made by the parents and others on behalf of the respondent have fetched no result, perforce the respondent had filed a divorce petition which was dismissed vide judgment dated 4.1.2013 against which an appeal was preferred by the respondent and the same also came to be dismissed on 11.3.2015. Thereafter, a joint petition under Section 13 (b) of the Hindu Marriage Act, 1955 was filed by petitioner No.1 and respondent herein before the Family Court, Raigarh, which came to be registered as C.S. No.135A/2015 and in which a decree of divorce was passed on 29.6.2016. The statement that was made by the parties was this that since the disputes between the parties could not be resolved, they do not wish to continue with the wedlock and therefore the application for dissolution of marriage was filed, which was allowed.

From the contents of the divorce petition filed by the respondent and the statement made in the petition for mutual divorce filed by both the parties, it cannot be said that the dispute between the parties was amicably settled. Though the parties opted to invoke the jurisdiction of Family Court for dissolving their marriage but by dissolution of such marriage, the petitioners cannot claim exoneration from the allegations made by the respondent against them regarding cruel treatment meted out to the respondent in connection with demand of dowry by the petitioners till the marriage was dissolved. Further the complaint petition was filed before the concerned trial Court on 2.8.2014 in

which the order taking cognizance was passed on 17.4.2016. For the purpose of calculating limitation period the date on which cause of action arose for filing complaint is relevant and apart from that the complaint is within limitation or without limitation has to be examined on the basis of the evidence that may be brought on record by both the parties. Hence, under these circumstances, I am of this opinion that this petition has no substance and the same is liable to be dismissed.

7. Accordingly, this petition is dismissed.

Sd/-

**(Rajendra Chandra Singh Samant)**

JUDGE

Nisha