

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 1997 of 2018**

- Maya Devi W/o Kishore Kumar Aged About 25 Years R/o Q.No.- 15/c, Street 29, Sector-5, Bhilai, Tahsil And District- Durg, Chhattisgarh.

---- Petitioner**Versus**

1. Kishore Kumar S/o Vishnu Singh, Aged About 32 Years
2. Dashmat Bai W/o Vishnu Singh
3. Vishnu Singh S/o Sunder Lal
4. Dinesh Kumar S/o Vishnu Sing Verma
5. Meera Bai W/o Dinesh Kumar

Respondents 1 to 5 are R/o Village- Tursa Bandha, Police Station- Rajeem, Tahsil- Rajeem, District- Gariyaband, Chhattisgarh.

6. Rameshwari W/o Thakur Ram Deshmukh R/o Village- Devkot, Tahsil And District- Durg, Chhattisgarh. Present Address- Gram- Tikri, Thana- Arjunda, Tahsil- Gunderdehi, District- Balod, Chhattisgarh.,

---- Respondents

For Petitioner : Shri Jitendra Gupta, Advocate

Hon'ble Shri Justice Ram Prasanna Sharma
Order on Board

19/11/2018

1. Heard on the application for grant of leave to appeal filed under Section 378 (4) Cr.P.C.
2. The instant Cr.M.P. has been filed seeking leave to appeal against the judgment dated 25.7.2018, passed by the Judicial Magistrate First Class, Durg (CG) in Complaint Case No.401/2010, wherein the said Court

has acquitted all the respondents for commission of offence under Sections 498-A read with Section 34 of the IPC.

3. In the present case, name of the complainant/victim is Maya Devi, who married to respondent No.1- Kishore Kumar on 5.5.2001 at village Junwani, District Durg. A complaint was filed before the trial Court on the ground that all the respondents demanded Rs.50,000/- as dowry from the complainant and on non-fulfilling the demand, they assaulted her. A report was lodged at Police Station Rajim on 22.6.2003 against respondent Kishore Kumar that he is inclined to perform second marriage and not inclined to stay with the complainant. After enquiry, the Police authorities found that no cognizable offence was made out and they advised the complainant to take legal recourse before the Court of law. The complainant and her father namely- Kamal Prasad Deshmukh were examined before the trial Court and statements of both the witnesses are general in nature. There is no objective evidence against any of the respondent.

4. It is settled law that when a number of persons are prosecuted, the overt act done by each one should be specifically mentioned and it should be specifically proved before the Court otherwise there is every possibility of punishing the innocent person. From the statement of witnesses of the petitioner's side, there is nothing specific against any of the respondent. The general statement made by the complainant is regarding beating to her by all the respondents. If all the six respondents had beaten the complainant, she should have suffered a number of injuries on her body, but no medical expert was examined to establish that any injury mark was found on the body of the complainant. Even from the statement of the complainant it is not clear on what part of body she sustained injuries.

Therefore, statement made before the trial Court by the complainant is vague in nature and same was not sufficient to establish the harassment or assault on the part of any of the respondent.

5. For commission of offence under Section 498-A, it has to be established that husband or relative of the husband subjected such a woman to cruelty. For the purpose of this Section, "cruelty" means -

"(a) any wilful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman; or

(b) harassment of the woman where such harassment is with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet such demand."

6. Considering the entire evidence adduced on behalf of the complainant's side, the trial Court opined that ingredients of the offence are lacking and charge against the respondents is not established. After re-assessing the evidence, this Court has no reason to record a contrary finding. It is not a case where the respondents should be called for full consideration of the case. Accordingly, the prayer for leave to appeal is rejected.

7. Consequently, Cr.M.P. stands dismissed.

Sd/

(Ram Prasanna Sharma)

Judge