

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 1297 of 2017**

- Aditya Bhardwaj S/o Umakant Bhardwaj, Aged About 27 Years R/o Kailash Nagar Rajnandgaon, Chhattisgarh At Present Resident Of Shri Kedar, 633, Infront Of Power Station, Near Football Ground, Rama Valley Bodari, Police Station Chakarbhata, District Bilaspur Chhattisgarh

---- Petitioner**Versus**

1. State of Chhattisgarh Through Police Station Chakarbhata, District Bilaspur Chhattisgarh
2. Santosh Kumar Yadav @ Gollu, S/o Bholuram Yadav, Aged About 31 Years
3. Smt. Saraswati Bai Yadav, W/o Santosh Kumar Yadav @ Gollu, Aged About 27 Years

both are R/o Ramhepur, Police Station Lormi, District Mugeli Chhattisgarh At Present Resident Of Veersagar Para, Kargiroad, Kota, District

---- Respondents

For Petitioner	:	Shri Anup Majumdar, Advocate
For Respondent/State	:	Shri V.A. Goverdhan, PL for the State
For Respondents No.2 & 3	:	Shri Nitesh Shrivastava, Advocate

Hon'ble Shri Justice Goutam Bhaduri**Order On Board****15/01/2019**

1. Heard.
2. The present petition is for transfer of a complaint case bearing No.81/2017 pending before the JMFC, Bilha to hear it simultaneously with the S.T. No.55/2016 pending before the Third Additional Sessions Judge, Bilaspur.

3. It is submitted on behalf of the petitioner that the petitioner had clamped allegation of theft on the domestic help who is respondent No.3 and as a counter blast to that the respondent No.3 had lodged the report of forceful sexual intercourse, whereupon the offence under Sections 376 & 506 IPC was registered and the charge-sheet has been filed which is pending trial before the Third Additional Sessions Judge, Bilaspur. It is further submitted that before the incident of rape which was said to have happened on 18.09.2015, a day prior to it on 17.09.2015 the petitioner had lodged the report of theft against the respondent No.3. The police having not taken cognizance of it subsequently a criminal complaint was filed under Section 200 Cr.P.C. before the JMFC under Section 381, 388, 389/34 IPC which is pending before the JMFC, Bilha and the complaint case bears No.81/17. It is contended that the defense which would be available to the petitioner in sessions trial case that of the complaint before the JMFC. Therefore, the cases may be tried together so that the truth will come to fore.
4. Perused the documents and the order. It appears that respondent No.3 had made a complaint of forceful sexual intercourse for which a report was made and an offence under Section 376 read with Section 506 IPC was registered which is pending as S.T. No.55/2016. The accused in the sessions trial had lodged a complaint against the complainant, wherein it is alleged that the victim lady the domestic help had stolen certain property i.e. cash, gold chain and ring for which a report was made to the police on 17.09.2015 prior to date of report of rape and subsequent a day after a report of rape was made by the lady.

Considering the facts of two cases, it appears that both the allegation and counter allegation and the offence are running through one thread. The petitioner has taken a defense that the allegations of rape are incorrect for the reason that prior to it a complaint of theft was made whereas the victim has leveled allegations of rape. The defence in rape case is allegations of criminal complaints case of theft. No prejudice would be caused to the victim if the complaint case filed by the petitioner is transferred to the Sessions Court.

5. Therefore, under the circumstances, the complaint which is pending before the JMFC, Bilha, is transferred to the sessions Court. In the opinion of this Court it would be fair that both the cases should be tried together/simultaneously so that the evidence in cases can be considered qua each other while passing the judgment in the complaint case as also in the sessions trial. In a result, it is directed that the complaint case bearing No.81/17, pending before the JMFC, Bilha, shall stand transferred to the Sessions Court i.e. Third Additional Sessions Judge, Bilaspur and both the cases i.e. complaint case bearing No.81/17 and S.T. No.55/2016 should be tried together.
6. With such observation, the CRMP stands disposed of.

Sd/-

Goutam Bhaduri
Judge

Ashu