

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 483 of 2019

Nimish S.Agrawal

Applicant

Versus

Smt. Ruhi Agrawal and Another

Respondent

Post for pronouncement of the order on 13.11.2019

Sd/-

JUDGE

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Order Reserved on : 13.08.2019****Order Delivered on : 13/11/2019****CRR No. 483 of 2019**

- Nimish S. Agarwal S/o Sunil Agrawal Aged About 38 Years R/o 1/45, Motilal Nehru Nagar(East), Bhilai Nagar, Police Station Supela Bhiali, District Durg Chhattisgarh

---- Applicant**Versus**

1. Smt. Ruhi Agrawal W/o Nimish S. Agrawal Aged About 34 Years R/o Street No. 3, Deepak Nagar, Durg, Police Station Mohan Nagar, Durg Tahsil And District Durg Chhattisgarh,
2. Vijay Agrawal S/o Late Ramswaroop Agrawal Aged About 64 Years R/o Street No. 3, Deepak Nagar, Durg, Police Station Mohan Nagar, Durg Tahsil And District Durg Chhattisgarh,

---- Respondents

For Applicant	: Shri Manoj Paranjape, Advocate
For Respondents	: Shri T.K.Jha, Advocate

Hon'ble Smt. Justice Rajani Dubey**C A V Order****13/11/2019**

Present revision is filed against the order dated 08.02.2019 passed by the Sessions Judge, Durg in Criminal Revision No. 54/2019 whereby the revision filed by respondent No.1 has been admitted and passed order for staying the proceedings pending before the Magistrate in criminal complaint No. 382/2019.

2. Facts of the case in brief are that the applicant filed a complaint

case before the Chief Judicial Magistrate, Durg under Section 3 of the Dowry Prohibition Act, 1961 alleging that complainant Nimish Agrawal got married with respondent No.1 Ruhi Agrawal on 16.10.2017 according to Hindu rituals and out of the wedlock, one daughter was born namely Nirvana Nimish Rai, now aged about 5 ½ years old. It is alleged that the respondent No.1 lodged a complaint at police station Supela against the applicant and his family members as Crime No. 415/2016. After investigation, charge sheet has been filed in the court of Chief Judicial Magistrate Durg for the offence under Sections 498-A, 377, 376 and 323/34 IPC and Sections 3 and 4 of the Dowry Prohibition Act, 1961. In the FIR and statement under Sections 161 and 164 Cr.P.C., respondent No.1 has stated that at the time of marriage, the applicant and his family members had demanded Rs. 2.5 crores and Rs. 60,00,000/- as dowry, which was deposited in the bank account of the applicant. Respondent No.1 has admitted that there was a demand of dowry and they have paid the said amount towards the demand. It is further stated that in the matter arising out of Domestic Violence Act, filed by respondent No.1 it has been admitted that they have paid the amount towards dowry therefore, the applicant has filed complaint against the respondents. Learned Chief Judicial Magistrate vide order dated 04.01.2019 had registered a complaint against the respondents and issued summons for their appearance. Against this order, respondent No.1 filed revision before the Sessions Judge, Durg and the revision filed by the respondents was admitted, proceedings were stayed by order impugned dated 08.02.19. Hence this revision filed by the applicant (complainant).

3. Counsel for the applicant submits that the impugned order is

illegal, erroneous and contrary to law. It is therefore liable to be set aside and the order of the Chief Judicial Magistrate dated 04.01.2019 is a well reasoned order which has been passed on the basis of material and evidence as adduced by the applicant. Thereafter, complaint has been registered against the respondents. It is submitted that no irregularity can be pointed out in the order of the Magistrate but the impugned order is not a speaking order and does not record any reason for granting stay of the proceedings. The order of the Magistrate i.e. registration of complaint and issuance of summons are not revisable and no interim relief can be granted without hearing the complainant. The respondents are not entitled for any interim relief. In the light of **Iris Computers Limited Vs. Askari Infotech Private Limited and Others**, Hon'ble Apex court has held that the revision before the learned sessions Judge was not maintainable. The learned Sessions Judge while passing the stay order, has not recorded any prima facie case and has granted stay which is not permissible under the law. The scope of revision is very limited and the Sessions Judge cannot grant interim relief just because the revision has been admitted for hearing. The order of issuance of process cannot be taken lightly. The respondents have not challenged the complaint itself but have challenged the order of issuance of process. So the impugned order is illegal and arbitrary,. Reliance has been placed by the counsel for the applicant in the matter of **Bholu Ram Vs. State of Punjab and Another (2008)9 SCC 140; K.M.Mathew Vs. State of Kerala and Another (1992)1SCC 217 and Adalat Prasad Vs. Rooplal Jindal and Others (2004) 7 SCC 338.**

4. On the other hand, Counsel of the respondent supports the order impugned and submits that the present revision is not maintainable. Learned Sessions Judge ought to have decided the same on merits however, the order dated 08.02.2019 is not a final order.

5. Heard counsel for the parties and perused the material available on record.

6. It is clear from the documents that earlier respondent No.1 filed a complaint against the applicant under Sections 498-A , 377 and 376 IPC and Section 3 and 4 of the Dowry Prohibition Act,1961. Learned Judicial Magistrate First Class, Durg registered a case against the respondents on 04.03.19 and issued summons against the respondents. Respondents filed revision before the learned Sessions Judge on various grounds which has been admitted for final hearing and notice was issued to the applicant and the proceedings were stayed though the case is pending before the learned Judicial Magistrate First Class, Durg.

7. Counsel for the applicant submits that the revision against the order of issuance of summons is not maintainable. Hon'ble Apex Court has held in several matters that the revision is not maintainable but the learned Sessions Judge stayed the proceedings of the complaint case.

8. From the order sheet dated 08.02.2019, it is clear that the learned Sessions Judge has admitted the revision, issued notice and stayed the proceedings of complaint case till the final decision of the

revision. Thus, in the opinion of this Court, the revision filed by the respondents is yet to be decided by the learned Sessions court on merits and the sessions court has only issued notice to the applicant who in turn, can apprise the court of his grievances. Section 397(2) of the Code reads as under :

“The powers of revision conferred by sub- section (1) shall not be exercised in relation to any interlocutory order passed in any appeal, inquiry, trial or other proceeding.”

It will be important to note that the word 'interlocutory **order**' used in this sub-section relates to various stages of the trial? namely, appeal, inquiry, trial or any other proceeding. The object seems to be to cut down the delays in stages through which a criminal case passes before it culminates in an acquittal, discharge or conviction. So far as the Code of Criminal Procedure, 1973 is concerned, it has got a wide and diverse area of jurisdiction inasmuch as it regulates the procedure of trial not only of the large number of offences contained in the Indian Penal Code but also in other Acts and statutes which apply the Code of Criminal Procedure or which are statutes in pari material the Code. Having regard, therefore, to the very large ambit and range of the Code, the expression 'interlocutory **order**' would have to be given a broad meaning so as to achieve the object of the Act without disturbing or interfering with the fairness of the trial. Fortunately, however, there are a few decisions which have interpreted the expression 'interlocutory **order**' including the order of the Hon'ble Apex Court in the matter of **V.C.Shukla Vs. State**

through CBI, AIR 1980 SC 962.

9. The scope of criminal revision is very limited under Section 397 Cr.P.C. as it imposes certain limitations for exercise of revisional jurisdiction. Thus, this Court does not find even any illegality or perversity in the orders passed by the Courts below and does not call for interference. Accordingly, I find no merit in the present revision. Same is accordingly dismissed.

Sd/-

(Rajani Dubey)
Judge