

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Misc. Petition No.22 of 2013**

- Smt. Narmada Gupta W/o Manoj Gupta Aged About 31 Years
R/o Vill Kudekela, PS Chaal, Distt Raigarh, Chhattisgarh

---- Petitioner**Versus**

1. State Of Chhattisgarh P.S. Bagicha, Distt Jashpur, Chhattisgarh
2. Manoj Kumar Gupta, Age 31 years, S/o Daleshwar Prasad Gupta, R/o Vill Kansabel, PS Kansabel, Distt Jashpur, Chhattisgarh
3. Mahavir Prasad Gupta S/o Harikishun Gupta R/o Vill Kansabel, PS Kansabel, Distt Jashpur, Chhattisgarh
4. Smt. Rajkumari Gupta W/o Daleshwar Gupta R/o Vill Kansabel, PS Kansabel, Distt Jashpur, Chhattisgarh
5. Arun Kumar Gupta S/o Daleshwar Gupat, R/o Vill Kansabel, PS Kansabel, Distt Jashpur, Chhattisgarh
6. Pramod Kumar Gupta S/o Daleshwar Gupta, R/o Vill Kansabel, PS Kansabel, Distt Jashpur, Chhattisgarh
7. Mukesh Kumar Gupta S/o Daleshwar Gupta R/o Vill Kansabel, PS Kansabel, Distt Jashpur, Chhattisgarh
8. Seema Gupta D/o Sandeep Gupta R/o Vill Darripara Bhaiyathan, PS Bhaiyathan, Distt Suruguja, Chhattisgarh
9. Sandeep Gupta S/o Sheetal Gupta R/o Vill Darripara Bhaiyathan, PS Bhaiyathan, Distt Suruguja, Chhattisgarh

---- Respondents

For the Petitioner : Shri JA Lohani, Advocate

For Respondent No.1/State: Shri Afroj Khan, Panel Lawyer

For other Respondents : Shri RV Rajwade, Advocate

Hon'ble Shri Justice Ram Prasanna Sharma**Order On Board****08.4.2019.**

1. Heard on application for grant of leave to appeal under Section 378(3) of CrPC.
2. This petition is preferred against the judgment dated 05.11.2012 passed by Additional Sessions Judge, Jashpur Distt. Jashpur (CG) in Criminal Appeal No.73/2012 wherein the said

Court dismissed the appeal filed against the judgment dated 16.5.2012 passed by Judicial Magistrate First Class, Bagicha, Jashpur in Criminal Case No.477/2009 wherein the respondents were acquitted of the charges under Section 498A and under Section 4 of Dowry Prohibition Act, 1961.

3. In the present case, complainant is Narmada Gupta who married to respondent Manoj Kumar Gupta on 06.12.2001. In the present case report was lodged on 26.6.2009 i.e. about 8 years after the marriage. Though it is stated before the trial Court that some demand was made between 25.5.2008 to 26.6.2009 but the same is not confirmed by the evidence of Narmada Gupta (PW-1), Seeta Sao (PW02) and Rajendra Prasad (PW-3). Seeta Sao (PW-2) is mother of the complainant and Rajendra Prasad (PW-3) is father of the complainant. From the evidence it is clear that from the year 2001 to 2008 no report was lodged against any of the respondents and looking to the entire evidence, the trial Court opined that the demand in connection with the marriage of the said parties is not established which is required for establishing charges for demand of dowry.

4. Definition of dowry is mentioned in Section 2 of the Dowry Prohibition Act, 1961 which reads as under:

“2. Definition of 'dowry'- In this Act, “dowry' means any property or valuable security given or agreed to be given either directly or indirectly-

(a) by one party to a marriage to the other party to the marriage; or

(b) by the parents of either party to a marriage or by any other person, to either party to the marriage or to any other person,

at or before (or any time after the marriage) (in connection with the marriage of the said parties but does not include) dower or mahr in the case of persons to whom the Muslim Personal Law (Shariat) applies.”

5. Though it is alleged that some assault was made by respondent Manoj Gupta to the complainant but no medical expert was examined to substantiate the charges that any injury was sustained by Narmada Gupta and period of injury.

6. Section 498A IPC attracts only when harassment is with a view to meet any unlawful demand or it is of such a nature as is likely to drive the woman to cause grave injury and danger to life. In the present case, demand of dowry is not established by the entire evidence and also harassment is also not established to the satisfaction of the trial Court. Finding recorded by both the Courts below is based on evidence on record and the same is not sustainable.

7. It is settled law that if two views are possible, the view which is favorable to the accused is accepted. Looking to the factual matrix and legal aspect of the matter, the finding of the Courts below are not liable to be interfered with. It is not a case where the respondents should be called for full consideration of the matter.

8. Accordingly, the application for leave to appeal is rejected. Consequently, the CrMP stands dismissed.

Sd/-
(Ram Prasanna Sharma)
JUDGE