

HIGH COURT OF CHHATTISGARH, BILASPUR**Order Reserved On 11.09.2019****Order Delivered On 10.12.2019****CRR No. 1003 of 2019**

- Sanjay Kumar Jangde S/o - Chandu Lal Jangde Aged About 45 Years R/o - Village-Sikaro-Keshli, Police Station-Suhela, District - Baloda-Bazar-Bhatapara Chhattisgarh.

---- Applicant**Versus**

- State Of Chhattisgarh Through Police Station -Suhela, District-Baloda-Bazar-Bhatapara Chhattisgarh.

---- Respondent

For Applicant	:	Mr. Hemant Gupta, Adv.
For State	:	Mr. Akhtar Hussain, PL

Hon'ble Smt. Justice Rajani Dubey**C.A.V. Order****10.12.2019**

1. The present revision petition has been filed by the applicant against the order dated 25.04.2019 passed by Judicial Magistrate First Class, Simga, District Baloda Bazar Bhatapara in Criminal Case No. 153/2019, whereby the learned trial Court framed charge against the applicant under Section 498-A/34 of Indian Penal Code as well as Section 4 of Dowry Prohibition Act.

2. Brief facts of the case are that, a report was lodged by the father of the prosecutrix, Tarachand Baghel, at police station Suhela on the ground that from 27.04.2016 to 19.02.2019, Heeralal Jangde, husband of the prosecutrix, harassed his daughter mentally & physically on account of bringing less dowry. On the basis of this report, offence has been registered against

four persons namely Heeralal Jangde (husband), Surajmal Jangde (father-in-law), Kamin Bai (mother-in-law), Sanjay Kumar Jangde (brother-in-law). After completion of investigation, charge-sheet has been filed against four accused persons including present applicant.

3. The learned trial Court, after hearing argument on 24.05.2019, framed charge against applicant and other co-accused persons under Section 498-A/34 of Indian Penal Code as well as Section 4 of Dowry Prohibition Act. Hence, this revision filed by applicant.

4. Learned counsel for applicant submits that learned trial Court had framed charge in a very mechanical manner which deserves to be quashed. There is no ingredient of Section 498-A of IPC against the applicant because the applicant was neither living with the family nor he was present on any occasion and in the entire document of the prosecution including Challan, there is no whisper thereof that any act was attributed by the applicant in connection with the said crime. Even prosecutrix in her 161 Cr.P.C. statement, nowhere stated against the applicant. He further submits that the allegations are vague and fake and to hide the main reason of prosecutrix's mental condition, which was hidden at the time of marriage, a concocted story has been cooked by the complainant. According the F.I.R., there is no averment which discloses the act of demand of dowry on the part of applicant. Thus, the charge and the charge sheet on the part of the applicant deserves to be quashed. In support of his argument learned counsel for the applicant placed reliance in the matter of ***K. Subba Rao and Others v. State of Telangana*** reported in ***[(2018) 14 SCC 452]***, ***Union of India v. Prafulla Kumar Samal*** reported in ***[1978 LawSuit (SC) 324]*** & ***State of Bihar v. Ramesh Singh*** reported in ***[1997 LawSuit (SC)]***

249].

5. On the other hand, learned counsel appearing on behalf of the State has supported the impugned order of the Court below.

6. Heard learned counsel for the parties and perused the material on record including the impugned order.

7. The close scrutiny of the charge-sheet discloses the fact that Heeralal Jangde, Surajmal Jangde and Kamin Bai are the husband, father-in-law and mother-in-law of the prosecutrix respectively, whereas the present applicant is son of Chandulal Jangde, who is elder brother of Surajmal Jangde. The present applicant resides at Kukurdi Thana City Kotwali Balodabazar, District Balodabazar Bhatapara whereas, other accused persons reside at Sikari-keshli, P.S. Suhela District Balodabazar-Bhatapara. The charge-sheet further discloses the fact that the present applicant is not the immediate family-member and except general allegations, nothing else is indicating about the involvement of applicant in the crime in question.

8. In K. Subba Rao (supra) case, Hon'ble Supreme Court held in para 6 as under:-

“6. Criminal Proceedings are not normally interdicted by us at the interlocutory stage unless there is an abuse of the process of a court. This Court, at the same time, does not hesitate to interfere to secure the ends of justice. See *State of Haryana v. Bhajan Lal*². The courts should be careful in proceeding against the distant relatives in crimes pertaining to matrimonial disputes and dowry deaths. The relatives of the husband should not be roped in on the basis of omnibus allegations unless specific instances of their involvement in the crime are made out. See *Kans Raj v. State of Punjab*³ and *Kailash*

² 1992 Supp (1) SCC 335 : 1992 SCC (Cri) 426

³ (2000) 5 SCC 207: 2000 SCC (Cri) 935

*Chandra Agrawal v. State of U.P.*⁴

9. prosecutrix in her 161 Cr.P.C. statement stated about the present applicant that he came with Heeralal Jangde (husband of prosecutrix) to the parental house of the prosecutrix and quarrelled with her family-members in the name of demand of dowry, except that no specific allegations regarding torturing or harassment has been made out by the victim against the present applicant. Thus, in the entire charge-sheet, there appears no prima facie involvement of the present applicant in the case.

10. Hon'ble Supreme Court in the case of Union of India v. Prafulla Kumar Samal held in para 10 as:-

“10. Thus, on a consideration of the authorities mentioned above, the following principles emerge:

(1) That the Judge while considering the question of framing the charges under Section 227 of the Code has the undoubted power to sift and weigh the evidence for the limited purpose of finding out whether or not a prima facie case against the accused has been made out;

(2) Where the materials placed before the Court disclose grave suspicion against the accused which has not been properly explained the Court will be fully justified in framing a charge and proceeding with the trial;

(3) The test of determine a prima facie case would naturally depend upon the facts of each case and it is difficult to lay down a rule of universal application. By ad large whoever if two views are equally possible and the Judge is satisfied that the evidence produced before him while giving rise to some suspicion but not grave suspicion against the accused, he will be fully within his right to discharge the accused;

4 (2014) 16 SCC 551; (2015) 3 SCC (Cri) 536

(4) That in exercising his jurisdiction under Section 227 of Code the Judge which under the present Code is senior and experienced Court cannot act merely as a Post-Office or a mouth-piece of the prosecution, but has to consider the broad probabilities of the case, the total effect of the evidence and the documents produced before the Court, any basic infirmities appearing in the case and so on. This however does not mean that the Judge should make a roving enquiry into the pros and cons of the matter and weigh the evidence as if he was conducting a trial."

11. In view of aforesaid discussion and in light of above principles, facts of the case, order dated 25.04.2019 passed by trial Court in respect of applicant Sanjay Kumar Jangde is liable to be and hereby set-aside.

12. Accordingly, the revision petition filed by the applicant is allowed and applicant is discharged from the charge framed by the trial Court against him under Section 498-A/34 of I.P.C.

**Sd/-
(Rajani Dubey)
JUDGE**