

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 578 of 2015****Order Reserved on : 14/10/2019****Order Delivered on : 18/11/2019**

1. Priyank Shukla, S/o Shri A. K. Shukla, aged about 35 Years (Husband of Complainant/respondent No.2), R/o Behind Ganga Nursing Home, Jagatpur, Raigarh, Tahsil and District Raigarh, Chhattisgarh.
2. Ashok Shukla, S/o Shri Late Sushil Kumar Shukla, aged about 61 Years(Father-In-Law/respondent No.2), R/o Behind Ganga Nursing Home, Jagatpur, Raigarh, Tahsil and District-Raigarh, Chhattisgarh.
3. Smt. Uma Shukla, W/o Shri Ashok Shukla, aged about 58 years(Mother-in-law/respondent No.2).(Now deceased).
4. Smt. Shikha Shukla, W/o Shri Ashutosh Shukla, aged about 32 Years (Sister-In-Law/respondent No.2), R/o Bindiya Marg, Shahdol, Tahsil & District-Shahdol, Madhya Pradesh.

---- Petitioners**Versus**

1. State of Chhattisgarh, Through Mahila Thana Raipur, Tahsil & District-Raipur, Chhattisgarh.
2. Yugal Kishori Shukla, W/o Shri Priyank Shukla, aged about 28 Years, R/o Through Father- Dr. Jai Narayan Tripathi, Siddheshwari Temple Road, Behind Primary School, Kota, Raipur, Tahsil Raipur, Civil & Revenue District-Raipur, Chhattisgarh.

---- Respondents

For petitioners	:	Mr. Dhiraj Kumar Wankhede, Advocate.
For State/respondent	:	Mr. Adil Minhaj, Govt. Advocate.
For Complainant	:	Mr. Rahim Ubwani, Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**CAV Order**

18/11/2019

Heard.

1. The petition has been filed under Section 482 of CrPC praying for quashment of criminal proceedings pending as Criminal Case No.6171/15 in the Court of Judicial Magistrate 1st Class, Raipur.
2. It is submitted that FIR No.15/2015 lodged in Mahila Thana, Raipur for commission of offence under Section 498A, 34, 506, 323 itself discloses that there is no substance to make out such case. The complainant has very clearly denied proposal of settlement of dispute. Otherwise also the statement of the complainant in FIR and her statement recorded under Section 161 of CrPC, do not disclose that behavior of the petitioners can be regarded as cruelty.
3. The marriage of petitioner No.1 with complainant Yugal Kishori was performed on 21.2.2011. Within a very short period the complainant left her matrimonial home, therefore, the petitioner No.1 filed a petition under Section 9 of Hindu Marriage Act, 1955 against the complainant in which order was passed in favor of petitioner No.1 directing the complainant to reside with petitioner No.1. Thereafter, on 6.5.2012 a daughter was born from the the cohabitation of petitioner No.1 and the complainant, but the complainant again left her matrimonial home on 4.12.2012. The complainant made her first complaint on 8.3.2015 on the basis of which FIR has been lodged. It is submitted that petitioner No.3 is now dead and her name has been deleted from the cause title. However, rest of the petitioners deserve to be granted relief of quashment.

Reliance has been placed on the judgment of Geeta Mahrotra and another vs. State of Uttar Pradesh and another, reported in (2012) 10 SCC 741 in which Supreme Court had appreciated the facts of the case and ordered that the case was of simple matrimonial dispute between the wife and her husband & in-laws, therefore, the criminal proceeding were quashed. Reliance has also been placed on the judgment of Supreme Court in Taramani Parakh vs. State of Madhya Pradesh and others, reported in (2015) 11 SCC 260, in which, it was held that the law relating to quashing is well settled. If the allegations are absurd or do not make out any case or if it can be held

that there is abuse of process of law, the proceedings can be quashed. In matrimonial cases, the courts have to be cautious when omnibus allegations are made particularly against relatives who are not generally concerned with the affairs of the couple. Reliance has been placed on the judgment of Bombay High Court in Nikhil vs. The State of Maharashtra & Ors., reported in 2019 0 Supreme(Mah) 821, in which relying on the decision of Supreme Court in the matter of State of Haryana and others vs. Ch. Bhajan Lal and others, the criminal proceedings were quashed by the Court. It is argued that when the allegations in complaint are vague against the other relatives in such case, the proceeding against such relatives can be quashed. Reliance has been placed on the judgment of Supreme Court in Pritam Ashok Sabaphule & Ors. vs. State of Maharashtra & another, reported in (2015) 11 SCC 769.

4. It is submitted by learned State Counsel appearing for respondent No.1 that the case is pending for framing of charge, therefore, the petitioners have the statutory remedy available to pray for discharge. It is further submitted that according to the evidence present in the charge-sheet, the petitioners are not entitled for any relief.
5. Learned counsel for respondent No.2/complainant submitted that the complainant has tried her best to reconcile with the petitioner and on failing in it, she lodged FIR. The allegations are very clearly against all the petitioners which can be rebutted or disputed only in trial, therefore, no ground is made out for quashment of the criminal proceeding.
6. I have heard both the parties and perused the documents on record.
7. Complaint has been given by respondent No.2 in Mahila Thana, Raipur that her marriage with petitioner was performed on 21.2.2011 and then she started residing in her matrimonial home and gave birth to a daughter. She has alleged that her husband, father-in-law, mother-in-law and sister-in-law used to taunt and harass her without any reason and used to behave with her very bitterly, which she had tolerated. She was not allowed to go to her parental home in the Holi festival and thereafter she was forcibly taken to the pilgrimage. After about 8 months of marriage, the petitioners started quarreling, beating and abusing the complainant. On one occasion her sister-in-law

misbehaved with her for the reason that she had not brought gift and money for one ritual. After marriage, a demand of Rs.5,00,000/- was made as dowry after which the father of complainant made payment of Rs.2,51,000/-. On one occasion she was forcibly made to consume a sweet item because of which she got food poison. When the complainant became pregnant she was beaten by her mother-in-law and therefore she called her brother and went to her parental house where she resided for about one year. In between her husband filed a false petition before the Court, then the complainant appeared and settled the dispute with her husband by compromising and giving her consent for going to matrimonial home. When she started residing in her matrimonial home, the petitioners again started misbehaving with her. A condition was also put to her that the dowry which her brother would receive in his marriage shall be given to the petitioners and her husband has threatened that in case of non-fulfillment of their demand, he will get her brothers killed. She has alleged that on 6.5.2013 her husband came to her parental house and made a demand of Rs.5 lakhs and all the items of dowry received by her brother and on refusal, the petitioner No.1 thrashed the complainant and went back leaving the complainant and her child in her parental house. Father and brothers of the complainant then took the complainant to her matrimonial home in Raigarh on 8.3.2015 but they found nobody in the house. When the petitioner No.1 was contacted on phone, he said in a threatening manner to the brother of the complainant that they should go in the same way as they have come otherwise they will have to face dire consequences. She has also alleged that on the same day, a conversation took place with her father-in-law and mother-in-law in which they made it clear that until the demand of Rs.5 lakhs is fulfilled, there shall be no compromise.

8. All the judgments on which reliance was placed by the petitioners namely-Geeta Mahrotra and another vs. State of Uttar Pradesh and another(supra), Taramani Parakh vs. State of Madhya Pradesh and others(supra), Nikhil vs. The State of Maharashtra & Ors.(supra), Pritam Ashok Sabaphule & Ors. vs. State of Maharashtra & another(supra) and the findings given therein were based on the facts present in those

cases. In this case although the allegations made are numerous and there is some dispute between complainant and the petitioners, but the main allegation of abuse, misbehave and demand of dowry is against petitioner No.1. The other allegation regarding demand of dowry and misbehavior is mainly against petitioner No.2 and petitioner No.3, who is now deceased. The only allegations against petitioner No.4 is that on one occasion soon after marriage this petitioner got annoyed with complainant for not bringing money and gifts for the rituals which can not be regarded as an incident of cruelty. However, it is found that there is evidence present against petitioner No.1 & 2 and also deceased petitioner No.3 that they misbehaved with the complainant and made demand of dowry which comes within the definition of 'cruelty' as defined under Section 498A of IPC, therefore, it cannot be said that there is no case against these petitioners. However, it can be said that there is no case against petitioner No.4. Hence, after considering all the facts and circumstances and evidence and the case laws' relied upon, I am of this opinion that the petition for petitioner No.1 & 2 does not deserve to be allowed. The prayer in this petition for petitioner No.4 is found to be having merits, therefore, her prayer deserves to be allowed.

9. This petition is disposed off with this order that this writ petition so far as it relates to petitioner No.1 & 2 stands dismissed. The prayer made on behalf of petitioner No.4 Smt. Shikha Shukla is allowed and the FIR and all the proceedings pending against her is hereby quashed.

Sd/-

(Rajendra Chandra Singh Samant)
JUDGE

Nisha