

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

W.P.(CR.) No. 861 of 2019

1. Rekha Yadav, D/o. Shri Harkeshwar Ram Yadav, Aged About 26 Years
 2. Hatkeshwar Ram Yadav, S/o. Shri Phalindar Yadav, Aged About 53 Years
 3. Farua Devi, W/o. Hatkeshwar Ram, Aged About 48 Years,
- All are R/o. Village Budhadand, Tahsil Bagicha, District - Jashpur, Chhattisgarh.

---- Petitioners

Versus

1. State of Chhattisgarh, Through - District Magistrate, Jashpur, District - Jashpur, Chhattisgarh.
2. Rashmi Yadav, W/o. Basant Yadav, Aged About 24 Years, D/o. Girdhari Ram Yadav, R/o. Village Khatanga, Post Charaitand, Duldula, District - Jashpur, Chhattisgarh.

-----Respondents

For Petitioners	: Mr. A.K. Prasad, Advocate
For Respondent/State	: Mr. Avinash K. Mishra, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

12/09/2019

Heard on I.A. No.1, application for grant of interim relief.

1. The instant petition under Article 226 of Constitution of India has been filed for quashment of the criminal proceeding bearing Criminal Case No.49/2019, pending before the Chief Judicial Magistrate, Jashpur,

District – Jashpur (C.G.) for the offence under Section 498-A, 506 (B), 509 (B) of the Indian Penal Code.

2. It is submitted by the learned counsel for the petitioners that the respondent No.2/complainant has grievances only against her husband, who is co-accused in this case and all the allegation in the complaint as well as in the evidence are only against the husband of respondent No.2. Reference has been made to the documents filed titled as affidavit and another documents mentioning address of the petitioners and it is submitted that petitioners were residing separately, therefore, the probability of the complaint against them is questionable.
3. Reliance has been placed on the judgment of Hon'ble Supreme Court in ***Varala Bharath Kumar and Another Vs. State of Telangana and another*** reported in ***2017 (9) SCC 413*** and it is prayed that the petition be admitted for final hearing and interim relief be granted in favour of the petitioners.
4. State counsel opposes the petition and submits that police has investigated the case and charge-sheet has been filed against the petitioners and the co-accused persons. All the grounds raised in this petition are grounds in defence. The petitioners can pray for discharge, if they claim that there is no substance against them and further they have all the opportunity to establish their defence in the trial, therefore, the petition be dismissed.
5. I have heard the learned counsel for the parties and perused all the documents placed on record.
6. On perusal of all the documents filed along with this petition, which included the FIR, written complaint of the respondent No.2 and

statement of the witnesses and on that basis it can not be said that there is no substance present against the petitioners. In ***Varala Bharath Kumar and Another Vs. State of Telangana and another (supra)*** the Hon'ble Supreme Court has very clearly observed that there was nothing present on record to show that there was any substance against the appellants in that case on which basis, the order of quashment was passed. Therefore, facts and circumstances of the case are different and I do not find any reason to admit this petition and hence, it is dismissed at the motion stage itself.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Balram