

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRCA No. 49 of 2020**

1. Sorin Bai Rathore & Ors. W/o Late Gauri Shankar Rathore Aged About 46 Years R/o Village Faraswani , Police Station Urga, Korba, District Korba Chhattisgarh
2. Shanti Bai W/o Late Harish Chand Sahu Aged About 65 Years R/o Village Nawagaon ,police Station Balauda, At Present R/o House No. 96/type-2, W.S.R.M. Colony, Khamtarai (2), Raipur , District Raipur Chhattisgarh
3. Raghunandan S/o Late Biharilal Rathore Aged About 63 Years R/o Village Nandorekala, Police Station Sakti, District Janjgir Champa Chhattisgarh

----Applicants**Versus**

- Kirtan Lal Rathore S/o Late Rampyare Rathore R/o Village Faraswani, Police Station Urga, Tahsil Kartala, District Korba Chhattisgarh

---- Respondent

For Applicants : Shri Punit Ruparel, Advocate
 For Complainant : Shri M.K.Baeg, Advocate

Hon'ble Shri Justice Manindra Mohan Shrivastava**Order On Board****15/07/2020**

Heard.

The applicants are apprehending their arrest in connection with Criminal Complaint case No.479/2013 pending before JMFC, Korba, CG for alleged commission of offences under Section 3, 4 and 5 of Tonhi Pratadna Act.

2. According to the complainant, the applicants had filed a false complaint against the complainant alleging that he is involved in the murder of one Pushpendra, son of Sorin Bai. Later on, no case was found against the complainant. The complainant allegation is that the applicants are time and again branding

complainant's wife as Tonhi (one playing witchcraft).

3. Learned counsel for the applicants would submit that the complaint was filed in the year 2013, after an enquiry was made by the police on alleged involvement of the complainant in the murder of Pushpendra, son of appellant No.1, the complaint, on the face of it, reveals that the main operative reason for filing complaint is to take revenge against the applicants for having moved the police administration in connection with death of Pushpendra making allegations against Kirtan Lal Rathore. Next submission is that in the complaint and preliminary statement, of which, cognizance was taken by the Magistrate on 18/01/2019, there is no specific allegation but general allegations were made without date, time, place or incident. It is next submitted that two of the applicants ladies are old, one is 65 years and the third applicant is 63 years of age.

4. On the other hand, learned counsel for respondent / complainant would submit that on the basis of specific complaint and preliminary statement, the Magistrate has taken cognizance because the applicants are harassing the wife of the complainant by branding and calling her Tonhi (one playing witchcraft).

5. Having considered the submission of learned counsel for the parties, particularly, the background that a complaint was made by Sorin Bai against the complainant that the complainant was involved in the murder of Pushpendra and further taking into consideration that the complaint and preliminary statement on the basis of which, cognizance has been taken by the Magistrate, does not speak any particular incident but is more in the nature of general complaint, there appears to be considerable force in the submission of learned counsel for the applicant that it is a case of false implication.

6. Accordingly, this application is allowed. It is directed that in the event of arrest of the applicants in connection with the aforesaid offence, they shall be released on

bail on each of them furnishing a personal bond in the sum of Rs.25,000/- along with one local surety for the like amount to the satisfaction of the arresting officer and they shall abide by all the following terms and conditions -

- (i) that the applicants shall make themselves available for interrogation by a Police Officer as and when required;
- (ii) that they shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade them from disclosing such facts to the Court or to any Police Officer.
- (iii) that the applicants shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and
- (iv) that the applicants shall appear before the Trial Court on each and every date given to them by the said Court till disposal of the trial.

Certified copy as per rules.

Sd/-
(Manindra Mohan Shrivastava)
Judge