

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 202 of 2020

1. Shyam Bihari, S/o Late Virjhu Sao, Aged About 66 Years, R/o Jabar Ward No. 04, Police-Station-Dudhi, District-Sonbhadra, Uttar Pradesh.
2. Smt. Anjana Devi, W/o Shyam Bihari, Aged About 60 Years, R/o Jabar Ward No. 04, Police-Station-Dudhi, District Sonbhadra Uttar Pradesh.
3. Abhay Kumar, S/o Shyam Bihari, Aged About 30 Years, R/o Jabar Ward No. 04, Police-Station-Dudhi, District-Sonbhadra, Uttar Pradesh.
4. Abhinay, S/o Shyam Bihari Aged About 24 Years, R/o Jabar Ward No. 04, Police Station Dudhi, District-Sonbhadra, Uttar Pradesh.
5. Abhinandan Kumar, S/o Jagdish Prasad, Aged About 30 Years, R/o Jabar Ward No. 04, Police Station Dudhi, District-Sonbhadra, Uttar Pradesh.

---- Petitioners

Versus

1. State of Chhattisgarh Through S.H.O., Police Station Sanawal, District-Balrampur, Ramanujganj Chhattisgarh.

---- Respondent

For Applicant	:	Mr. Pushkar Sinha, Advocates.
For Respondent/State	:	Mr. Adil Minhaj, Govt. Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

04/03/2020

Heard.

1. This revision petition has been brought being aggrieved by the order dated 23.9.2019 passed by the learned 2nd Additional Session Judge, Ramanujganj, District-Balrampur Ramanujganj, Chhattisgarh, in S.T. No.42/2019 by which the charges have been framed against the applicant under Section 498A & Section 313 of IPC.
2. It is submitted that on perusal of the written complaint given by the complainant, it is revealed that she had clearly stated that there was no demand of any dowry at the time of marriage, therefore, the

subsequent statement of demand is concocted and made up. It is also submitted that the offence under Section 313 of IPC is not at all made out for the reason that there is no support of medical evidence. The doctor has not given any clear opinion whether the abortion of the complainant was induced or not, therefore, the applicants are entitled for discharge.

3. Learned State counsel opposes the petition and submissions made in this respect. It is submitted that there is clear and sufficient evidence against the applicants to make out both the offences, therefore, no need for interference of this Court.
4. I have heard both the parties and perused the documents on record.
5. On perusal of the copy of complaint of the complainant Hemlata Gupta and her statement under Section 161 of CrPC, it is found that there is sufficient material to hold that *prima facie* case is made out for framing charge against the applicants under Section 498A of IPC. However, regarding the offence under Section 313 of IPC the allegation of the complainant is only against two persons namely-applicant No.2-Smt. Anjana Devi and applicant No.4-Abhinay. They were the persons, who forcefully made the complainant to drink the milk and subsequent to that she aborted and started bleeding. There is medical evidence of abortion. Therefore, the statement of the complainant appears on this point related only with these two applicants and there is no allegation made by her subsequently for other applicants in her statement and in the complaint, therefore, the framing of charge against the applicants No.1, 3 & 5 does not appear to be proper, hence, the impugned order needs interference.
6. Accordingly, the revision petition is allowed in part at the motion stage. The charges against the applicants No.2 & 4 are maintained. Similarly the charges against the applicants No.1, 3 & 5 under Section 498A of IPC is maintained. However, the charge against the applicants No.1, 3 & 5 under Section 313 of IPC is set aside.

Sd/-

(Rajendra Chandra Singh Samant)
Judge

