

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No.806 of 2020

1. Smt. Manjula Mishra W/o Shri Rudranath Mishra Aged About 68 Years
R/o Flat A-1704, Lords Co-Operative (Wrongly Mentioned As
Corporation) Society, Swastik Park, Bhandup Village Road, Bhandup
West Mumbai, Bhandup West Mumbai Suburban, Maharashtra,
2. Suraj Kumar Mishra S/o Shri Rudranath Mishra Aged About 36 Years
Presently Residents Of Flat A-1704, Lords Co-Operative Society,
Swastik Park, Bhandup Village Road, Bhandup West Mumbai, Bhandup
West Mumbai Suburban, Maharastra, Permanent Address 125,
Vishanpur Tole Gartol, Anchal Ghoghardiha, District- Madhubani (Bihar)

---- Applicants

Versus

State Of Chhattisgarh Through S.H.O. P.S. Mahila Thana, Raipur,
District- Raipur, Chhattisgarh

---- Respondent

For Applicants	:	Ms. Meena Shastri, Advocate.
For Respondent/State	:	Mrs. Fouzia Mirza, Additional A.G.
For Objector	:	Mr. J.K. Gupta, Advocate

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

16/12/2020

Heard.

1. The applicants are apprehending their arrest in connection with Crime No.33/2020 registered at Police Station – Mahila Thana, Raipur, District Raipur (C.G.) for alleged commission of offence under Section 498-A, 34 of IPC.
2. The prosecution case is that wife of applicant No.2 lodged report in the police station alleging that after solemnization of second marriage on 04.05.2018, the husband and the mother-in-law started harassing prosecutrix in connection with demand of huge amount of dowry and the wife was tortured and harassed in many ways.
3. Learned counsel for the applicants would argue that institution of criminal case in the present case is only intended to harass the present

applicants because in the present case, the parties, after marriage, had certain dispute particularly with regard to the adoption of the child born out of wedlock of complainant in her first marriage. Learned counsel for the applicants would further argue that from various transcript of phone calls and messages exchanged between the applicant No.2 and complainant also, it is clear that the dispute was on some other issues and not with regard to demand of dowry. Learned counsel for the applicants further submit that the applicants, harassed by conduct of wife, lodged a report in the Police Station Phulparas Madhubani, Bihar. Finally a divorce petition was filed by applicant No.2 on 20.11.2019 before the jurisdiction of Family Court at Bombay and when wife came to know about institution of report in the police station and filing of divorce petition at Bombay, then only she came out making allegation against the applicants alleging commission of offence under Section 498-A of IPC. In course of time, counselling was conducted and record of counselling has also been placed on record which show that the main dispute was with regard to the child born from first marriage of the complainant.

4. On the other hand, learned counsel for the State and Objector would submit that present is a case where the wife has made categoric allegation in the FIR lodged by her on 24.05.2020 which is in writing and clearly state that the applicants and his family members has been harassing her on demand of dowry since solemnization of marriage on 04.05.2018 and she has been subjected to torture, harassment, ill-treatment so much so that he had to leave matrimonial house and even during counseling proceedings, she had clearly stated these facts.

5. On prima facie consideration, this Court finds that the applicant No.2 and prosecutrix both contacted second marriage on 04.05.2018. The applicant No.2 has placed on record transcript of phone calls of a long period which disclose that the dispute between the parties was there but limited to some issue. Further it is found that prior to lodging of FIR by the prosecutrix, the applicant had already lodged report in the Police Station Phulparas Madhubani, Bihar and then he filed a divorce petition. It was only after filing of the divorce petition that the wife submitted a report in the police station which was finally registered in the month of May, 2020. Therefore, considering the aforesaid material on record, it is a fit case for grant of anticipatory bail, therefore, the application is allowed.

6. Accordingly, 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 the applicants 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 they shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and
- (iv) that they shall appear before the trial Court on each and every date given to them by the said Court till disposal of the trial.
- (v) The personal bond and surety furnished by **applicant No.1/Smt. Manjula** Mishra in connection with ad-interim bail stands discharged.

Certified copy as per rules.

Sd/-

(Manindra Mohan Shrivastava)

J U D G E