

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 861 of 2021**

1. Pravesh Gupta, S/o Late Shri Anant Kumar Gupta, Aged About 33 Years,
2. Smt. Manju Gupta, W/o Late Shri Anant Kumar Gupta, Aged About 60 Years,
3. Pinki Gupta, W/o Abhijeet Gupta, Aged About 35 Years,
All R/o Ward No. 08, Turkaripara, Police Station Khairagarh,
Tahsil Khairagarh, District Rajnandgaon, Chhattisgarh.
(Wrongly mentioned as Bilaspur).

---- Petitioners**Versus**

Smt. Priyanka Gupta, W/o Shri Pravesh Gupta, Aged About 30 Years, Through Shri Pradeep Gupta, presently R/o Amit Medical Stores, Gandhi Nagar/Nehru Nagar, Balram Talkies, Near Dr. Ghatke Nursing Home, Bilaspur, Tahsil and District Bilaspur, Chhattisgarh.

---- Respondent

For Petitioners : Shri Ajay Thakre, Advocate

Hon'ble Shri Parth Prateem Sahu, Judge**Order on Board****12.11.2021**

1. This petition is filed seeking relief for quashment of Criminal Complaint Case No.05 of 2020 pending before Judicial Magistrate First Class, Bilaspur, Chhattisgarh for commission of alleged offence under Sections 498-A and 34 of Indian Penal Code (in short 'IPC').
2. Shri Ajay Thakre, learned counsel for the petitioners submit that marriage of petitioner No.1 with respondent was solemnized on 22.02.2014. Respondent No.2 immediately

after coming to her matrimonial house, started misbehaving and quarreling with family members and thereafter, she herself left matrimonial home. Thereafter, petitioner No.1 filed an application under Section 13 of the Hindu Marriage Act, 1955 (in short 'Act of 1955') before Additional Principal Judge, Family Court, Bilaspur seeking divorce in Civil Suit No.132-A/2017. Civil suit for grant of divorce was decreed in favour of petitioner vide judgment dated 04.04.2019. Family Court while decreeing the suit in favour of petitioner No.1 recorded a finding that it is the petitioner who is indulged in using abusing language and not behaving properly. He pointed out that respondent has also preferred an application under Section 125 of the Code of Criminal Procedure, 1973 (in short 'Cr.P.C.') for grant of maintenance. Learned Family Court, after concluding inquiry, allowed application in part and rejected application for grant of maintenance so far as it relates to respondent and allowed maintenance only for child (applicant No.2 therein). In that also, Family Court recorded that respondent was deserted for any harassment as pleaded in application. The witnesses examined by respondent in civil suit for grant of divorce as well as in the proceeding under Section 125 of Cr.P.C. only will be examined by respondent in criminal complaint case, hence, no purpose will be served to continue with criminal complaint case. He also pointed out that criminal complaint

case has been filed only after filing of application for grant of divorce by petitioner No.1. The proceedings under challenge is an abuse of process of law, hence, it be quashed.

3. I have heard learned counsel for the petitioners and also perused the documents placed on record.
4. The main contention of petitioners is that as Family Court in two proceedings based on the evidence produced by petitioner No.1 as well as respondent, recorded a finding that respondent could not able to prove the pleadings made in reply to application for grant of divorce as well as in the application under Section 125 of Cr.P.C.
5. The law with regard to considering evidence of civil proceeding and criminal proceeding or vice versa is well settled that evidence of either proceedings cannot be accepted as it is, but Presiding Officer dealing with case of either nature has to apply its mind and to consider the case based on evidence brought on record by respective parties in very said proceeding.
6. So far as consideration of Magistrate for continuing with criminal complaint case is only with regard to whether there is any material brought on record by complainant by way of pleading and by way of preliminary evidence to show that there is sufficient material to proceed with the complaint further and it is not that whether preliminary evidence or

pleading brought on record is sufficient for conviction of non-applicant therein.

7. The present petition is not filed with the grounds that from perusal of pleadings in complaint case and grounds raised therein would show that respondent has made certain allegations of harassment and ill-treatment with regard to demand of dowry. The preliminary evidence of complainant or her witnesses though recorded is not brought on record.
8. In view of above factual position, I do not find any good ground to grant relief, as sought for by the petitioners in this petition. The petition being devoid of substance, is liable to be and is hereby dismissed.
9. At this stage, learned counsel for the petitioners submits that complaint case is pending since 2016, hence, a direction be issued to learned Magistrate to dispose of criminal complaint case expeditiously.
10. Considering the period of pendency of criminal case and nature of dispute as appearing from the records between the parties, learned Judicial Magistrate First Class, Bilaspur, Chhattisgarh will make all his endeavor to dispose of Criminal Complaint Case No.05 of 2020 expeditiously.

Sd/-
(Parth Prateem Sahu)
Judge