

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.627 of 2011

Daitari Sahu and others *Petitioners*
versus-
State of Odisha *Opposite Party*

CORAM: JUSTICE S. PUJAHARI

Order
No.

ORDER
25.02.2022

09.
 1. This matter is taken up through hybrid mode.
 2. This application under Section 482 of Cr.P.C. has been filed by the Petitioners with a prayer to quash the order dated 23rd November, 2010 passed by the learned J.M.F.C., M. Rampur in G.R. Case No.143 of 2009 wherein the petition filed by the prosecution to array the Petitioners, who are father-in-law and mother-in-law of the victim, as accused persons in the case has been allowed.
 3. Heard the learned counsel for the Petitioners and the learned counsel for the State.
 4. As it appears, though F.I.R. was lodged, but the Petitioners were not charge sheeted and the husband of the victim has been charge sheeted after investigation. But during

the course of trial, the victim having stated that she was drove out and after birth of a child, the Petitioners also demanding more dowry and assaulted her, they have been summoned under Section 319 of Cr.P.C.

5. Placing reliance of the decision of the Apex Court in the case of *Ramesh Chandra Srivastava v. State of U.P. & Anr., reported in (2021) 84 OCR (SC) 413* wherein following of a decision of the constitution Bench of the Apex Court rendered in the case of *Hardeep Singh v. State of Punjab and Ors., reported in (2014) 3 SCC 92*, the Apex Court held that mere existence prima facie is not sufficient to proceed against a person under Section 319 of Cr.P.C. Besides a prima facie case, some more cogent evidence is required to be proceeded to a person not charge sheeted under Section 319 of Cr.P.C.

6. Learned counsel for the Petitioner would submit that as the allegation against the Petitioners, who are father-in-law and mother-in-law of the victim, is omnibus in nature, the Court should not have allowed the petition under Section 319 of Cr.P.C., more so, when in such cases the parents-in-law are roped in falsely. This Court, therefore, taking note of the said

fact and the law laid down in the case of *Hardeep Singh* (supra) and *Ramesh Chandra Srivastava* (supra), quash the impugned order passed.

7. Learned counsel for the State, however, controverting the submission made as above by the learned counsel for the Petitioners would submit that it being specifically alleged that the Petitioners are parents-in-law meted with cruelty to the victim to drove her out, the same is sufficient to proceed against them and, therefore, the evidence adduced meeting the requirement of law as laid down by the constitution Bench in the case of *Hardeep Singh* (supra), this petition filed challenging the order impugned is devoid of merit.

8. On consideration of the facts and submissions made and after going through the evidence on record, so also the law down in the case of *Hardeep Singh* (supra) as well as the decision rendered by the Apex Court in the case of ***Kans Raj v. State of Punjab and Others, reported in (2000) 5 SCC 207*** wherein it has been held that “A tendency has, however, developed for roping in all relations of the in-laws of the deceased wives in the matters of dowry deaths which, if not

discouraged, is likely to affect the case of the prosecution even against the real culprits. In their overenthusiasm and anxiety to seek conviction for maximum people, the parents of the deceased have been found to be making efforts for involving other relations which ultimately weaken the case of the prosecution even against the real accused as appears to have happened in the instant case.”, this Court is of the view that the aforesaid evidence basing on which the Petitioners in this case are arrayed, do not satisfy the requirement of law as laid down in the case of *Hardip Singh Puri* (supra) to proceed against the Petitioners under Section 319 of Cr.P.C.

9. Accordingly, the CRLMC is allowed and the impugned order stands quashed.

10. Urgent certified copy of this order be granted on proper application.

(S. Pujahari)
Judge

DA