

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.2708 of 2016

Manoj Kumar Sahukar & others* *Petitioners

-versus-

State of Orissa & another* *Opposite Parties

CORAM: JUSTICE S.PUJAHARI

ORDER

18.04.2022

Order
No.

05.

1. This matter is taken up through Hybrid mode.
2. This application under Section 482 Cr.P.C. has been filed by the Petitioners for quashment of the order dated 28.12.2015 passed by the learned J.M.F.C., G. Udayagiri in G.R. Case No.64 of 2007 wherein the learned J.M.F.C. rejected the petition filed under Section 239 Cr.P.C. for discharge.
3. Learned counsel for the Petitioners submits that since investigation was perfunctory one, so also as the other in-laws members were residing far-away place, it was not possible on their part to come and physically tortured the victim, therefore, the charge under Sections 498-A/406/34 IPC and Section 4 of the D.P Act against them is without any substance. He further submits that since the allegation in this case is omnibus in nature, the Petitioners are entitled to an order of discharge. To fortify his submission, he has placed reliance on the decision of the apex Court in the case of **Preeti Gupta and another vrs. State of Jharkhand & another** reported in AIR 2010 SC 3363.

4. However, learned counsel for the State submits that there being specific allegation against the Petitioners in-laws as revealed from the statement of the victim under Section 161 Cr.P.C. and the perfunctory investigation as well as the plea of alibi cannot be a ground to discharge the accused when the materials prima facie disclose that there are sufficient grounds to presume that the accused persons to have committed the offence, this Court should not interfere with the impugned order.

5. In the case of **Preeti Gupta** (supra), the apex Court have held that the ultimate object of justice is to find out the truth and punish the guilty and protect the innocent. To find out the truth is a herculean task in majority of these complaints. The tendency of implicating husband and all his immediate relations is also not uncommon. At times, even after the conclusion of criminal trial, it is difficult to ascertain the real truth. The courts have to be extremely careful and cautious in dealing with these complaints and must take pragmatic realities into consideration while dealing with matrimonial cases. The allegations of harassment of husband's close relations who had been living in different cities and never visited or rarely visited the place where the complainant resided would have an entirely different complexion. The allegations of the complaint are required to be scrutinized with great care and circumspection. Experience reveals that long and protracted criminal trials lead to rancour, acrimony and bitterness in the relationship amongst the parties. It is also a matter of common knowledge that in cases filed by the complainant if the husband or the husband's relations had to remain in jail even for a few days, it would ruin the chances of

amicable settlement altogether. The process of suffering is extremely long and painful.

6. After hearing learned counsel for the parties and going through the materials as placed by the learned counsel for the State so also the submission made and taking note of the law laid down by the apex Court, this Court is of the view that prima facie the specific allegations have been made against the Petitioners. In such premises, this Court is of the view that there are sufficient grounds to proceed against the Petitioners to face the trial. Hence, the petition filed to discharge the Petitioners on the ground stated being devoid of merit stands dismissed inasmuch as the law laid down in the case of **Preeti Gupta** (supra) is of no assistance to the Petitioners in this case.

7. Since the aforesaid case is a year old one, learned trial court shall proceed with the matter as expeditiously as possible and conclude the trial within six months hence without being influenced by any observations made in this case.

8. With the aforesaid order, this CRLMC stands disposed of.

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

(S. Pujahari)
Judge

PKS