

IN THE HIGH COURT OF ORISSA AT CUTTACK

AFR

CRLMC No.161 of 2015

Jyotirmayee Sahoo @ Sharma Petitioner
Mr. Goutam Mishra, Senior, Advocate

-Versus-

State of Odisha and Another Opposite Parties
Mr. T.K. Praharaj, SC

CORAM:
JUSTICE R.K. PATTANAİK

DATE OF JUDGMENT:11.11.2022

1. Referring to the decisions of **Preeti Gupta and Another Vrs. State of Jharkhand and Another (2010) 7 SCC 667** and **Kahkashan kausar @ Sonam and Others Vrs. State of Bihar and Others (2022) 6 SCC 599** wherein the Apex Court highlighted upon the need for restraint while scrutinizing the complaints of dowry harassment with care and circumspection especially when allegations are insufficient or omnibus in nature, the petitioner, who happens to be the sister-in-law of the victim opposite party No.2, has knocked the portals of the Court invoking its inherent jurisdiction under Section 482 Cr.P.C. for quashing of the criminal proceeding in G.R. Case No334 of 2012 corresponding to Keonjhar Town P.S. Case No.73 of 2012 pending in the file of learned S.D.J.M., Keonjhar on the grounds inter alia that the same is not tenable in law and thus deserves to be interfered with and quashed in the interest of justice.

2. The informant is the sister-in-law of the petitioner. The petitioner's brother is said to have married opposite party No.2 in the year 2009 and as there were differences in their marital life, the latter lodged the FIR at Keonjhar Town P.S. dated 23rd

March, 2012 for which a case under Sections 498-A, 313 and 506 read with 34 IPC besides Section 4 D.P. Act was registered. Finally, on completion of investigation, the petitioner and other accused persons were chargesheeted under the alleged offences submitted vide C.S. No.168 dated 23rd August, 2012.

3. The petitioner challenges the criminal action on the ground that there is no specific allegation against her rather it appears to be general and that apart, she has been falsely roped in at the instance of opposite party No.2, inasmuch as, she got married in the year 2007 much prior to the marriage of the estranged spouses and since then was staying at Chennai with her husband, whereas, the parties lived at Burla. On such ground, the criminal proceeding is assailed by the petitioner.

4. Heard Mr. Goutam Mishra, learned Senior Advocate for the petitioner, Mr. T.K. Praharaj, learned SC for the State opposite party No.1 and Mr. Arun Kumar Acharya, learned counsel for opposite party No.2.

5. In fact Mr. Mishra, learned Senior Advocate cited the authorities of the Apex Court mentioned herein before besides another, namely, **Seenivasan Vrs. State By Inspector of Police and Another (2019) 8 SCC 642** to contend that the petitioner has no direct role played which is evident from the FIR and the allegations to be omnibus in nature by referring to the FIR (Annexure-1) and a copy of the chargesheet (Annexure-2). Besides the above, the statements of the material witnesses recorded under Section 161 Cr.P.C. have been read out by Mr. Mishra, learned Senior Advocate to satisfy the Court that the allegations against the petitioner cannot stand.

6. Mr. Praharaj, learned SC, on the contrary, submits that the allegations are attributed to the entire family of the accused

husband and all of them including the petitioner played a part in ill-treating opposite party No.2 and therefore, they have been rightly chargesheeted and hence, the criminal proceeding cannot be quashed as has been prayed for by the petitioner. The above contention is adopted by Mr. Acharya, learned counsel appearing for opposite party No.2

7. The Court glanced through the contents of Annexure-1 and on a sincere reading of the same finds that the allegations of ill-treatment ever since marriage of opposite party No.2 in 2009 are primarily directed against her accused husband and parents-in-law. The whole lot of events which happened from 2009 till 2012 when the FIR was lodged stand described by opposite party No.2 which includes ill-treatment, mental and physical torture, she was being meted out. One can remotely come across, on a meticulous reading of Annexure-1, attributing anything directly against the petitioner and her specific role. Notwithstanding the above, the petitioner stood chargesheeted for the alleged offences along with other accused persons. It is claimed that the petitioner was subjected to humiliation and harassment and was arrested in connection with the case despite the fact that the allegations to be general in nature which was in flagrant violation of the dictum of the Supreme Court in the case of **Arnesh Kumar Vrs. State of Bihar (2014) 8 SCC 273** and of this Court in **Santanu Kumar Panda and Others Vrs. State of Orissa and Another 2014 (I) OLR 470**.

8. Mr. Mishra, learned Senior Advocate refers to the decision of **Preeti Gupta** (supra), wherein, the Apex Court clearly held and observed that genuine cases of dowry harassment is a matter of serious concern but exaggerated version of small incidents should not be reflected in the criminal complaint and the allegations in that regard to be scrutinized with great amount of

care and caution especially against the husband's relatives who were living in different cities and rarely visited the matrimonial home of the complainant with the suggestion that there is a need for serious relook and revisit to the entire provision of Section 498-A with the recommendation to the Parliament in that behalf. Similarly, in **Kahkashan kausar @ Sonam** (supra), the Supreme Court had the occasion to hold that general and omnibus allegations without any specific and distinct role alleged against the accused-in-law may be sufficient to quash the FIR and therein also a word of advice is rendered which is to the effect that the courts should be careful in proceeding against distant relatives in crimes pertaining to matrimonial disputes and dowry deaths and must keep in mind that relatives of husband should not be roped in on the basis of omnibus allegations unless specific instances of their involvement are made out. In **Seenavasan** (supra), the Apex Court even held that proceeding against near relatives of husband who resided at a different address than the matrimonial home of the complainant may have to be quashed or else it could amount to abuse of process of law.

9. In the case at hand, the petitioner is the sister-in-law of opposite party No.2 and in the FIR, whatever allegations made are principally directed against her husband and mother-in-law and also involving father-in-law but rarely anything spoken about the petitioner or describing therein any specific role she did play or instances attributing her involvement in the alleged ill-treatment meted out to the victim. The dowry allegation and demands related thereto and the daily incidents happened in her marital life have been described by opposite party No.2 without directly mincing any words against the petitioner. Similar allegations do appear on a bare reading of the statements of the

witnesses including that of the mother and brother of opposite party No.2 recorded under Section 161 Cr. P.C. which indicate and attribute the excess committed by others and not the petitioner. The fact that the petitioner to be the sister-in-law and a separate resident and not staying in the matrimonial home of opposite party No.2 stands not in dispute. If the decisions (supra) are applied to the facts of the present case, the Court is of the view that the petitioner though the sister of accused husband but there has been either insufficient involvement or a faint allegation made against her considering the FIR and the statements of the witnesses under Section 161 Cr.P.C. which are more or less being general and omnibus in nature and therefore, keeping in view the principles laid down by the Apex Court discussed herein above, it has to be concluded that she could not have been subjected to criminal action when the complaint entirely stares at the accused husband and parents-in-law, In other words, it is a fit where inherent jurisdiction is required to be exercised in order to do *ex debito justitia*.

10. Accordingly, it is ordered.

11. In the result, the petition stands allowed. As a logical sequitur, the criminal proceeding in connection with G.R. Case No.334 of 2012 arising out of Keonjhar Town P.S. Case No.73 of 2012 pending in the file of learned S.D.J.M., Keonjhar vis-à-vis the petitioner is hereby quashed.

(R.K. Pattanaik)
Judge