

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.3605 of 2011

<i>Rosalin Patanaik and another</i>		<i>Petitioners</i>
<i>Swati Sataprava Dwibedi</i>		<i>Opposite Party</i>

CORAM: JUSTICE S. PUJAHARI

Order
No.

ORDER
23.03.2022

05. 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 entire criminal proceeding initiated against the Petitioners vide 1.C.C. Case No.78 of 2011 pending in the Court of J.M.F.C., Jajpur Road.
3. Heard the learned counsel for the Petitioners and the learned counsel for the Opposite Party-Complainant.
4. As it appears, the Opposite Party-Complainant filed an F.I.R. against the Petitioners along with others alleging offences under Sections 498(A), 506 read with Section 34 of the I.P.C. and Section 4 of the Dowry Prohibition Act, which was registered vide Korai P.S. Case No.165 of 2010, corresponding to G.R. Case No.935 of 2010 of the file of J.M.F.C., Jajpur Road. The case having been investigated and charge sheet was filed against the three accused persons, but the

Petitioners, who are the married sister-in-law of the Opposite Party No.2-Victim and her husband, were not challaned by the police. Thereafter, on protest made by the Opposite Party No.2-victim, the Court recorded the initial statement of the victim as well as her witnesses during inquiry under Section 202 of Cr.P.C., held that prima facie a case under Sections 323, 294 read with Section 34 of the I.P.C. is made out against the Petitioners. However, no material is there to show that they were involved any offence under Section 498-A, 406, 506 of the I.P.C. or 4 of the Dowry Prohibition Act and decided to proceed against them.

5. Petitioners are admittedly married sister-in-law of the Opposite Party No.2-Victim and her husband and living separately. Generally, in cases of dowry torture, a tendency of the victim is to array all the in-laws as accused on some motivated allegations. The same is finding from the fact in this case that the Court did not believe their statement to be true on dowry torture against them.

6. Considering the aforesaid facts and submissions made, this Court is of the view that the allegations have been made against the Petitioners being actuated with malice, as such, for the ends of justice, the criminal proceeding initiated against the Petitioners is liable to be quashed.

7. Accordingly, this Criminal Misc. Case is allowed and the criminal proceeding initiated against the Petitioners vide 1.C.C. Case No.78 of 2011 pending in the Court of J.M.F.C., Jajpur Road stands quashed. The learned J.M.F.C., Jajpur Road or the Court in seisin over the matter shall on receipt of the copy of this order/production of the copy of this order, do the needful in this regard.

8. However, if during trial of the G.R. case, if the same is still pending and any convincing evidence is available to proceed against the Petitioner, there is no prohibition to array them as co-accused in the said case.

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

(S. Pujahari)
Judge

DA