

IN THE HIGH COURT OF ORISSA AT CUTTACK
CRLMC NO.442 of 2016

Smt. Rebati Senapati and another

.... ***Petitioners***
Mr. T.Mishra, Advocate.

-versus-

State of Orissa and another

.. ***Opp.Parties***
. Mr. M.K.Khuntia, AGA

CORAM:
JUSTICE CHITTARANJAN DASH

ORDER
14.10.2022

Order No.

09.

1. Challenge in this application is to the Order dated 8th December, 2015 passed by the learned J.M.F.C., Basudevpur in G.R. Case No. 468 of 2015 whereby the learned court below took cognizance of the offence under Sections 498-A/304(B)/306/34 of the Indian Penal Code (here-in-after called 'IPC') involving the Petitioners.

2. The back ground fact of this case are that the daughter of the informant got married to the son of the Petitioners in the year 2013 according to Hindu Rites and customs. Allegedly at the time of marriage dowry was given to the bride. However, having spent a blissful life for some days, the in-laws of the bride such as mother-in-law, father-in-law and the husband ill treated her in connection with the demand of dowry in cash amounting to Rs.50,000/- and was subjected to physical torture in the manner that in such she was not given food and was assaulted. Being

informed of the said condition of their daughter, the informant attending the grievance getting it subsided intermittently. However, on 16th June 2015 in the morning at about 6.15 A.M the husband of the informant received a message from the son-in-law namely Rabindra Senapati that the bride having consumed poison and got senseless and they may come to the hospital. By the time the husband of the informant arrived at the hospital found his daughter to have sustained brunt injury to the extent of 90% and was shifted to SCBMCH, Cuttack where she succumbed to the injuries.

3. On the basis of the report, the police registered a U.D. Case and took up enquiry. During the course of enquiry, the Police recorded the statement of the witnesses that includes the father, mother and brother of the victim. Subsequently, having come to know that the daughter to have subjected to ill treatment that led to her injuries, F.I.R was lodged and investigation commenced.

4. Learned counsel for the Petitioners, *inter alia*, contended that the initial statement of the father and brother of the deceased does not make out any case against the Petitioners and it is only after the cremation of the body that the mother of the deceased lodged the report concocting a case against them besides the husband. It is the further contention of the learned counsel that the allegations in the subsequent F.I.R and statement of witnesses purported only to harass the Petitioners as the allegations are afterthought. Relying on the decision reported in **2017 SCC OnLine Ori 848 (Jyoti Ranjan Mishra @ Happy V. State of Orissa)** passed by the Coordinated Bench of this Court, the

learned counsel canvassed for quashing of the impugned cognizance order.

5. Per contra, Mr. Khuntia, learned AGA vehemently opposed the contentions raised by the learned counsel for the Petitioners and submitted that the impugned order is just and legal and based on the materials available in the record and requires no interference.

6. It is no more *res integra* that the Court should be circumspect in exercising of jurisdiction under Section 482 of Cr.P.C while adverting to quashing of an order of cognizance. This is more so in an eventuality when the allegations are alleged based on apprehension or presumption and on the criticism that the complaint indicates only an element to harass the in-laws. A duty is cast upon the court to look to the allegations meticulously in order to ascertain if the materials appearing in the record constitute an offence made out against the Petitioners.

7. Admittedly, in exercise of power under Section 482 of Cr.P.C, the Court does not examine the correctness of the allegations in a complaint except to examine if apparently the allegations are frivolous and do not make out a case.

8. In view of the above, when the case in hand is examined, admittedly the initial statement of the father and brother of the deceased recorded in course of enquiry under the U.D.Case does not appear incriminating to the Petitioners, but the F.I.R lodged on the very same day substantially contained material

constituting the offences involving the Petitioners. As submitted by the learned counsel for the Petitioners, the allegations are afterthought. As reveals from the record there was no scope for the kith and kin of the deceased to enquire the cause of death by the time they received information about the injuries of their daughter and further it is difficult to ensure the circumstances in which the statements of father or bother would have been recorded during the enquiry in U.D.Case. The quashing of the cognizance at the threshold of the case would definitely pose a hindrance in the process of law initiated in the facts and circumstances of the case at the behest of the informant who is an affected person. The very fact that the death occurred within a short span of marriage of the victim in the house of the in-laws by burn injuries to the extent of 90% is suggestive of a circumstance that the victim received in voluntary injuries.

9. Consequently, a thorough trial is required to ascertain the truth behind the death of the deceased. Quashing of the F.I.R at the threshold in exercise of the jurisdiction under Section 482 of Cr.P.C in the present set of facts does not appear reasonable. The decision cited by the learned counsel for the Petitioners in the present facts and circumstances does not have any application.

10. Consequently, the CRLMC stands dismissed. The Petitioners are directed to submit before the Court below for further instruction in the proceeding with the trial.

(Chittaranjan Dash)
Judge