

M.Cr.C. No.12729/2013

31.10.2013

Shri Anil Lala, Advocate for the applicants.

Shri Yogesh Dhande, Public Prosecutor for the respondent-State.

Heard on admission.

The applicants have filed the present application under Section 482 of Cr.P.C. to quash the registration of Crime No.312/2013 registered at Police Station Ranjhi, Jabalpur.

The brief facts of the case are that the complainant-respondent No.2 is the wife of the applicant No.2 and daughter-in-law of the applicant No.1. After four years of her marriage, she left the house of the applicants and she also left her son with the applicants. On 8.4.2013 the applicant No.2 had filed an application under Section 9 of the Hindu Marriage Act for Restitution of Conjugal Rights and thereafter the complainant lodged an FIR against the applicants for various offences including the offence under Section 498-A of IPC.

The learned counsel for the applicants submits that no FIR was lodged by the complainant in first four years of her marriage. After leaving the house of the applicants she kept silence for ten months when the applicant No.2 moved an

application under Section 9 of the Hindu Marriage Act. The FIR was lodged by the respondent No.2 as a counter blast. No alleged offence is made out against the applicants. The learned counsel for the applicants has placed his reliance upon the various orders of the Single Benches of this Court in the case of **“Kailash Chandra Maheshwari Vs. State of MP”, [2006(1) MPHT 349]**, **“Dashrath P. Bundela Vs. State of MP”, [2012(1) MPHT 196]** and the **order dated 17.5.2012 passed in M.Cr.C.No.10686/09** to show that such type of FIRs were quashed in the past.

On the other hand, the learned counsel for the State has opposed the petition.

It would be apparent that the complainant resided with the applicants for four years without any resistance. It also appears that in last ten months before filing an application under Section 9 of the Hindu Marriage Act, no step of conciliation took place between the parties except of that application filed under Section 9 of the Hindu Marriage Act by the applicant No.2. It is not for wife to break the marriage, and therefore to lodge an FIR is the last alternate for the wife when the applicants did not make any approach for reconciliation and the applicant No.2 had moved an application under Section 9 of the Hindu Marriage

Act, then the complainant had no option except to lodge an FIR about the harassment done by the applicants. At present it cannot be said that the FIR is total false document or it is lodged without any basis. At present the testimony of the complainant and her witnesses cannot be brushed aside. Under such circumstances, there is no reason by which the FIR registered against the applicants may be quashed.

Due to different of facts the orders cited by the learned counsel for the applicants are not applicable in the present case, and therefore no inference can be drawn from the orders of various Benches of this Court. In those cases no any law laid down about the matter that as and when the FIR lodged by the wife, the same can be quashed. All the above orders depend upon the factual position of that particular case, therefore the said orders cannot be considered as precedent. Under such circumstances, there is no basis by which the FIR lodged by the complainant-respondent No.2 can be quashed. Consequently, the present petition filed by the applicants under Section 482 of Cr.P.C. is hereby dismissed at motion stage.

(N.K.Gupta)
Judge

Ansari