

29.02.2016 heard learned counsel for the petitioners and learned counsel for the State.

The petitioners have assailed the order dated 12.03.2015 passed by the learned S.D.J.M., Jeypore in G.R. Case No.478 of 2013 taking cognizance of offences under Sections 498-A/366/363/323/506/34 of the I.P.C. read with Section 4 of the D.P. Act and issuing summons to the accused persons.

It transpires that petitioner nos.1 and 4 were on regular bail and petitioner nos.2, 3 and 5 were granted anticipatory bail by this Court in BLAPL NO.26300 of 2013.

The apprehension of the petitioners is that since cognizance has been taken in general against all the accused persons and summons have been issued, petitioner nos.1, 2, 3 and 5 against whom no charge-sheet was filed for the offences under Sections 363/366 of the I.P.C., in the event they appear before the learned court below, they may not be allowed bail since the cognizance has been taken under Section 366 of the I.P.C., which is a graver offence and triable by the Court Sessions and, therefore, so far as those four accused persons are concerned the cognizance of offences under Sections 363 and 366 of the I.P.C. should be quashed.

It is trite that the cognizance is taken of the offences and not of the offenders and there is no rule or law that cognizance shall be taken of separate offences individually against each of the accused persons involved in a case. The apprehension of petitioner nos.1, 2, 3 and 5 is wholly unreasonable and unwarranted for the reasons that while appearing in pursuance of summons issued, the accused petitioners shall bring to the notice of the court that they were not charge-sheeted for offences under Sections 363/366 of the I.P.C. It is also further open to the petitioners to raise the issue with regard to framing of charge at the appropriate time in case the trial court seeks frame to charge against them for offences which they have not committed.

With the aforesaid observations, the CRLMC is disposed of.

B.K.Nayak,J.