

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr.M.P. No. 3242 of 2017

1. Santosh Singh @ Santosh Kumar, son of Rameshwar Singh
 2. Pratima Devi @ Pratima Singh @ Pramima Devi, wife of Santosh Singh @ Santosh Kumar
- All residents of Bajrang Nagar, Koderma, P.O., P.S. & District- Koderma

... Petitioners

-Versus-

1. State of Jharkhand
2. Pushpa Devi, wife of Anil Kumar, daughter of Ram Sewak Singh, resident of Koderma, P.O., P.S. & District- Koderma

... Opposite Parties

CORAM: HON'BLE MR. JUSTICE SANJAY KUMAR DWIVEDI

For the Petitioners	: Mr. Deepak Kumar, Advocate
For the Opposite Party-State	: Mr. Ashok Kumar, A.P.P.
For Opposite Party No.2	: Mr. Ajay Kumar Singh, Advocate

06/30.06.2022. Heard Mr. Deepak Kumar, learned counsel for the petitioners, Mr. Ashok Kumar, learned counsel for the State and Mr. Ajay Kumar Singh, learned counsel for opposite party no.2.

2. This petition has been filed for quashing the cognizance order dated 13.02.2017 passed by the learned Judicial Magistrate, 1st Class, Hazaribag whereby cognizance has been taken against the petitioners and summon has been issued against the petitioners as well as for quashing entire criminal proceeding in connection with Complaint Case No.905/2016, so far as these petitioners are concerned.

3. The complaint case was filed by opposite party no.2 alleging therein that she is the married wife of accused no.1 Anil Kumar Singh and the marriage was solemnized on 21.04.2014. At the time of marriage, Rs.6,50,000/- was given to the accused persons in dowry. It was further alleged that after marriage the complainant came to her Sasural where she noticed peculiar behaviour including her Jetthani, Nanad and husband. It

was also alleged that on the first night of the marriage, the Jethani of the complainant told the husband of the complainant to tell the complainant all the facts and thereafter her husband told the complainant to bring at least Rs.10,00,000/- from her Naihar else he will leave her. It was further alleged that after some days, the accused persons made a fun that she is not a lady and these two petitioners told either to kill the complainant or to abandon her. On 25.04.2014, the complainant came back to her Naihar along with her father but at that time also the accused persons demanded Rs.10,00,000/-. It was also alleged that on 12.08.2014, the complainant returned to her Sasural but soon thereafter the accused persons started torturing her and thereafter she was examined by the doctor and the doctor found her a fit lady, she was also examined at Ranchi. It was further alleged that in the meantime, she became pregnant and then her husband along with Preety Devi and petitioner no.2 Pratima Devi administered poison to her due to which she became ill. It was further alleged that the husband of the complainant has illicit relationship with his Bhabhi.

4. Mr. Deepak Kumar, learned counsel for the petitioners submits that only omnibus allegations are there against these two petitioners, who are sister-in-law and brother-in-law of opposite party no.2 and they are residing in a separate house. He further submits that before 12.03.2016, petitioner no.2 was posted in Kasturba Gandhi Balika Vidyalay, Markacho and the complaint has been filed in the year 2016. He further submits that in the solemn affirmation, opposite party no.2 has not taken name of these two petitioners. He draws attention of the Court to the order taking cognizance dated 13.02.2017 and submits that in last paragraph of that order, the learned court has observed that there is only a general allegation of physical

torture and thereafter the learned court has not proceeded to take cognizance under relevant sections of the Indian Penal Code. On these grounds, he submits that entire criminal proceeding may be quashed, so far as these petitioners are concerned.

5. Mr. Ajay Kumar Singh, learned counsel for opposite party no.2 submits that there are allegations against the petitioners and the learned Court has taken cognizance against the petitioners looking into the entire complaint case. He further submits that there is no illegality in the impugned order. He also submits that the trial is going on.

6. Mr. Ashok Kumar, learned counsel for the State tried to justify the cognizance order by way of submitting that reasoned order is there.

7. In light of the above submissions of the learned counsel for the parties, this Court has gone through the material on record and finds that so far as physical torture is concerned, there are omnibus allegations against all the accused and considering this fact, the learned court has not taken cognizance so far as physical torture is concerned under relevant sections of the Indian Penal Code. The Court has perused the solemn affirmation of opposite party no.2 and finds that not even single whisper is there so far as these two petitioners are concerned.

8. Time and again, the Hon'ble Supreme Court and the High Courts have deprecated to implicate the relatives of the husband when there is no specific allegation against the relatives. A reference may be made to the judgment rendered by the Hon'ble Supreme Court in the case of ***K. Subba Rao v. State of Telangana***, reported in ***(2018) 14 SCC 452***. Paragraph 6 of the said judgment is quoted herein below:

"6. Criminal proceedings are not normally interdicted by us at the interlocutory stage unless there is an abuse of the process of a court. This Court, at the same time, does not hesitate to interfere to secure the ends of justice. See State of Haryana v. Bhajan Lal. The courts should be careful in proceeding against the distant relatives in crimes pertaining to matrimonial disputes and dowry deaths. The relatives of the husband should not be roped in on the basis of omnibus allegations unless specific instances of their involvement in the crime are made out."

9. In so many cases, the Hon'ble Supreme Court as well as High Courts at numerous instances expressed concern over the misuse of Section 498A of the Indian Penal Code and increased tendency of implicating relatives of the husband in matrimonial disputes without analyzing the long term ramification of trial on the complaints as well as the accused. Therefore, upon looking into the entire materials on the record and relevant circumstances and in absence of any specific role attributed by these two petitioners, it will be unjust to post them to face the trial and it will amount to abuse of process of law.

10. In view of the aforesaid facts, entire criminal proceedings as well as the cognizance order dated 13.02.2017 passed by the learned Judicial Magistrate, 1st Class, Hazaribag in connection with Complaint Case No.905/2016, pending in the court of learned Judicial Magistrate, 1st Class, Hazaribag, so far as these petitioners are concerned is, hereby, quashed.

11. It is made clear that this Court has quashed the criminal proceeding with regard to only two accused, who are petitioners herein and this Court has not interfered with the allegations of other accused, who are facing the trial.

12. Accordingly, this petition stands allowed and disposed of.

(Sanjay Kumar Dwivedi, J.)