
(2015) 09 JH CK 0052

In the Jharkhand High Court

Case No : Criminal M.P. No. 1160 of 2013 and I.A. No. 4313 of 2015

Parmeshwar Gope and Others

APPELLANT

Vs

The State of Jharkhand and Others

RESPONDENT

Date of Decision : 16-09-2015

Acts Referred:

Dowry Prohibition Act, 1961 — Section 4

Penal Code, 1860 (IPC) — Section 323, 34, 341, 406, 498-A

Citation : (2015) 4 JLJR 170

Hon'ble Judges : Harish Chandra Mishra, J.

Bench : Single Bench

Advocate : P.C. Tripathi, Jai Shankar Tripathi, Abhas Kr. Pandey, Namrata Kumari and Nazia Rashid, for the Appellant

Final Decision : Dismissed

Judgement

Harish Chandra Mishra, J.—Heard learned counsel for the petitioners and learned counsel for the State, as also learned counsel for the Opposite Party No. 2. The petitioners are aggrieved by the order dated 20.4.2013 passed by Sri Abhishek Prasad, learned Judicial Magistrate, Dhanbad, in C.P. Case No. 2465 of 2012, whereby on the basis of the allegations made in the complaint petition, the statement of the complainant on solemn affirmation and the statement of the witnesses examined at the enquiry stage, the prima facie offence under Sections 498-A, 406, 323, 341/34 of the Indian Penal Code and Section 4 of the Dowry Prohibition Act, has been found against the petitioners.

2. The petitioners are the husband, brothers-in-law and sister-in-law of the complainant. The complaint petition has been brought on record, which shows that the marriage between the parties had taken place at Dhanbad, and it is alleged that during the marriage ceremony also, the accused persons 2 to 5 who are the brothers-in-law and sister-in-law of the complainant, (petitioners Nos. 2 to 5 herein), forbade the husband to complete the marriage ceremonies, stating that the dowry given to them was not sufficient. Thereafter, when further two

lakh rupees in cash was given to the brother-in-law of the complainant, the marriage was allowed to be performed. After the marriage, the complainant was taken to Farakka in the State of West Bengal at her matrimonial home and it is alleged that she was subjected to cruelty and torture for the demand of dowry in various ways and she was also taken to Jabalpur, in Madhya Pradesh, where the husband was employed, and there also she was subjected to cruelty and torture for the demand of dowry. Thereafter, with the help of the local Court, the complainant was rescued from her husband and taken back by her parents. With these allegations, the complaint petition was filed in the Court of the Chief Judicial Magistrate, Dhanbad, which was registered as C.P. Case No. 2465 of 2012. The statement of the complainant was recorded on solemn affirmation and some witnesses were also adduced at the enquiry stage, on the basis of which, by the impugned order dated 20.4.2013, the prima facie offence as aforesaid, has been found against the petitioners.

3. Learned counsel for the petitioners has submitted that the petitioner, Parmeshwar Gope had also filed an application in the competent Court at Jabalpur, Madhya Pradesh, alleging threatening by his wife and her family members and the application was filed for proper protection in the Court at Jabalpur by the husband on 23.8.2012. Thereafter, the present complaint has been filed by the complainant. Learned counsel has also submitted that the petitioners have been falsely implicated in this case and most of the allegations are alleged to have taken place outside the jurisdiction of the Court below. Learned counsel accordingly, submitted that this is a fit case for quashing the entire criminal proceeding against the petitioners.

4. Learned counsel for the State, as also learned counsel for the opposite party No. 2 have opposed the prayer, submitting that on the basis of the allegations made in the complaint petition, the statement of the complainant on S.A., as also the statement of the witnesses adduced in the enquiry stage, the offence is clearly made out against the petitioners and there are specific allegations against all the accused persons. Learned counsel, accordingly, submitted that there is no illegality in the impugned order, finding prima facie offence against the accused persons and no case is made out for any interference in the criminal proceeding against the petitioners at this stage. It is also pointed out by the learned counsel for the opposite party No. 2 that the application filed by the husband in the Court at Jabalpur has already been dismissed.

5. Having heard the learned counsels for both the sides and upon going through the record, I find that on the basis of the allegations made in the complaint petition, as also on the basis of the materials on record, the offence is clearly made out against all the petitioners. There are specific allegations against all the petitioners in the complaint, and the part of the occurrence allegedly took place at Dhanbad also, at the time of marriage, when the petitioners No. 2 to 5 allegedly forbade the husband, i.e., the petitioner No. 1, from completing the marriage ceremony and only when two lakh rupees in cash was given to the

brother-in-law of the complainant, the marriage was allowed to be performed.

6. In the facts of this case, I do not find any illegality in the impugned order passed by the Court below, finding prima facie offence against the petitioners, as aforesaid. No case is made out for any interference in the criminal proceeding against the petitioners by this Court at this stage. In view of the aforesaid discussions, I do not find any merit in this application and the same is accordingly, dismissed. Consequently, I.A. No. 4313 of 2015 filed by the opposite party No. 2, for vacating the stay order dated 15.5.2013 passed in this case, also stands disposed of, as by the dismissal of the main application, the ad-interim order automatically stands vacated.