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IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No. 2444 of 2016

***Debi Prasad Bindhani and ...
Others***

Petitioners

Ms. S. Jena, Advocate

-versus-

State of Orissa & another ...

Opp. Parties

Mr. A. K. Apat, Addl. P. P.

Mr. R.B. Dash, Addl. P.P.

Mr. U. R. Jena, Advocate

For O.P. No.2

CORAM:

THE HON'BLE MR. JUSTICE CHITTARANJAN DASH

Date of Judgment: 06.08.2025

Chittaranjan Dash, J.

1. By means of this application, the Petitioners seek to challenge the order of cognizance dated 19.08.2015, passed by the learned S.D.J.M., Balasore in CT Case No.2268 of 2014.

2. The background facts of the case are that Petitioner No.1 married Opposite Party No.2 on 23.11.2008, and both were employed in different cities. After some time, due to job-related issues, Opposite Party No.2 returned to live with Petitioner No.1. Over time, disputes arose between the couple, particularly concerning her reluctance to stay with



her in-laws and insistence on a separate residence. Several attempts at reconciliation, including police intervention and compromise, failed. The parties continued to live separately, and Petitioner No.1 eventually filed for divorce on the grounds of cruelty and desertion. On 10.04.2014, a physical altercation occurred between the parties, following which cross-cases were registered at Sahadev Khunta P.S. Thereafter, Opposite Party No.2 lodged ICC Case No. 1184 of 2014 alleging dowry harassment, which was registered as Balasore Town P.S. Case No. 237 of 2014. Upon completion of the investigation, a charge sheet was filed and cognizance was taken by the learned SDJM, Balasore on 19.08.2015 against all the Petitioners. Aggrieved by the said order of cognizance, the Petitioners have approached this Court in the present CRLMC.

3. Ms. Jena, learned counsel for the Petitioners, submitted that Opposite Party No.2, in P.S. Case No. 213 of 2014, alleged that she was subjected to torture by the Petitioners to the extent of not being provided even a square meal a day during her pregnancy. It was further alleged that she was assaulted and locked in a room due to the non-fulfilment of a dowry demand of Rs. 5 lakhs in cash. According to Ms. Jena, Opposite Party No.2 also alleged that the Petitioners did not allow her to meet her



parents and family members. In the meantime, she gave birth to a male child and continued to endure the alleged torture and cruelty, hoping that the Petitioners' attitude would change. However, the situation worsened, and it is alleged that the Petitioners plotted to kill her by setting her on fire. Sensing danger, she left for her parental house at Madhuban, Baripada. Ms. Jena contended that Opposite Party No.2, in order to cover up her own misconduct, filed a false complaint case in January 2014 for the first time, alleging torture for non-fulfilment of a dowry demand. By that time, Petitioner No.1 had already taken steps toward divorce, made a Station Diary Entry against Opposite Party No.2, and had filed a proceeding for divorce in 2013 on grounds of cruelty and desertion. She argued that, from the above conduct of the Petitioners, it can be safely concluded that Balasore Town P.S. Case No. 237 of 2014, which gave rise to C.T. Case No. 2268 of 2014, is nothing but an afterthought, filed with the intention to harass the Petitioners. Ms. Jena further submitted that Opposite Party No.2, with full knowledge, falsely implicated Petitioner Nos. 2 to 4, who are the parents-in-law and sister-in-law. According to her, Petitioner No.4 was working as an Assistant Teacher at S.N. High School, Basta, and except for omnibus allegations, no specific statements have been



made against her. Ms. Jena also pointed out that omnibus allegations were made against Petitioner No.2, the father-in-law, who is a retired police officer, and Petitioner No.3, the mother-in-law, who is a retired government school teacher. In totality, Ms. Jena submitted that the order of cognizance taken against the Petitioners by the learned SDJM is illegal and has been passed mechanically, without proper application of mind. Accordingly, she prayed for quashing of the same.

4. Mr. Apat, the learned Additional Standing Counsel for the State, on the other hand, drew the attention of this Court to the statements of the witnesses recorded under Section 180 BNSS (161 Cr.P.C.), particularly those of Sunit Chandra Das, Ramani Kanta Giri, and Sudarshan Dwibedi. According to the learned counsel, all three witnesses, being neighbours of the Petitioners, have alleged instances of ill-treatment and cruelty meted out to Opposite Party No.2. He further submitted that the FIR, coupled with the statements of the witnesses, clearly implicates the Petitioners in the alleged offences. The submissions and contentions made by the learned counsel for the Petitioners with regard to the conduct of Opposite Party No.2 are, at best, matters of defence which can be urged during trial. At this stage, it cannot be said that there is no material to



implicate the Petitioners so as to warrant quashing of the FIR. The learned counsel for the State also took the Court through the specific averments made in the complaint petition as well as the FIR, wherein detailed allegations have been made regarding the overt acts attributed to each of the Petitioners, thereby attracting the offences under Sections 498-A, 325, 323, 506, and 34 of the IPC read with Section 4 of the Dowry Prohibition Act. He, therefore, submitted that the impugned order taking cognizance of the offences against the Petitioners is legal and proper and does not warrant any interference.

5. Upon perusal of the record, it reveals that Petitioner No.1 and Opposite Party No.2 entered into a matrimonial alliance on 23.11.2008. At the time of marriage, Petitioner No.1 was working as an Analyst in UBS India Service Centre Pvt. Ltd., Hyderabad, whereas Opposite Party No.2 was employed at City Technology Company in Chennai. After the marriage, which was solemnised and consummated at Balasore in the Petitioners' house, the couple stayed there for about a week before returning to their respective places of work.

In 2009, the company where Opposite Party No.2 was employed was reportedly taken over by Wipro Management, following which her employment was



terminated on the ground that her experience certificate was allegedly found to be forged. Thereafter, she moved to Hyderabad and began residing with Petitioner No.1. It is alleged that from the very beginning of the marriage, Opposite Party No.2 was disinclined to reside with her in-laws, preferring to live separately. In due course, Petitioner No.1 received a better job offer from Bajaj Allianz and shifted to Kolkata. Meanwhile, Opposite Party No.2 returned to Balasore and alternated her stay between her matrimonial home and her parental house. During this period, she gave birth to a male child at Balasore. After delivery, she went to her parents' home at Baripada, where she remained for around three months. Petitioner Nos. 1 to 3 requested her to return to the matrimonial home. She eventually came back but allegedly began to create disturbances in the household once again.

In 2010, Petitioner No.1 joined Erla Tires after receiving another employment offer. Around this time, Opposite Party No.2 is said to have insisted that he live separately from his parents. Upon his refusal, she is stated to have left for her father's house. Petitioner No.1, with the help of family members and well-wishers, tried to bring her back, but the attempts did not succeed. He then filed C.P. No. 83 of 2011 before the Family Court, Balasore, seeking



divorce, but later withdrew the petition on 22.05.2011 on the advice and intervention of family elders and well-wishers. After the withdrawal of the divorce petition, Opposite Party No.2 returned and resumed cohabitation with the Petitioners, but the disputes allegedly persisted.

It is further stated that Opposite Party No.2 would often threaten to implicate the Petitioners in legal proceedings. On one such occasion, Petitioner No.1 approached the Balasore Town Police Station, and the matter was mediated with the intervention of police officials. On 23.10.2011, both parties appeared before the police and agreed to live together under certain mutually accepted terms and conditions. Thereafter, while Petitioner No.1 was residing in Kolkata, he attempted to maintain communication with Opposite Party No.2 through emails, mainly to enquire about her well-being and that of their child. However, he reportedly received no response from her side. Finding no alternative, he again approached the police on 21.10.2013, seeking further intervention. When no fruitful outcome emerged, Petitioner No.1 filed a private complaint before the Court of the learned SDJM, Balasore, which was registered as 1CC Case No. 2237 of 2013. However, the same was dismissed for non-prosecution. During this time, Petitioner Nos. 1 to 3 are said to have



made repeated efforts, through close relatives and acquaintances, to persuade Opposite Party No.2 to return, but none of these efforts yielded any result. Eventually, Petitioner No.1 filed C.P. No. 302 of 2013 before the Family Court, Balasore, seeking divorce on the grounds of cruelty and desertion.

A further incident is alleged to have taken place on 10.04.2014 at around 9:20 A.M., when Petitioner No.1, while riding his motorcycle and stopping at a traffic signal near Fakir Mohan Chhak, was allegedly assaulted by Opposite Party No.2, her elder sister, and her brother-in-law. Petitioner No.1 went to Sahadev Khunta Police Station to report the incident. Around the same time, Opposite Party No.2 and her relatives also approached the same police station and alleged that Petitioner No.1 had assaulted them. As a result, two cross-cases were registered vide P.S. Case No. 337 of 2014 against Petitioner No.1 and P.S. Case No. 338 of 2014 against Opposite Party No.2 and her sister. It is alleged that the police intentionally did not implicate her brother-in-law in the latter case.

Thereafter, on 27.09.2014, Opposite Party No.2 filed ICC Case No. 1184 of 2014 before the learned SDJM, Balasore, alleging that she was subjected to cruelty and harassment by the Petitioners in connection with dowry



demands. The said complaint was later converted into Balasore Town P.S. Case No. 237(27) of 2014. Simultaneously, she also filed a petition for maintenance, Cr.P. No. 229 of 2014, before the Family Court, Balasore. After investigation, the police submitted a charge sheet against the Petitioners under various sections of the IPC and Dowry Prohibition Act. Based on the materials collected during investigation, the learned SDJM, Balasore, took cognizance of the offences on 19.08.2015. The Petitioners have now approached this Court under Section 482 of the CrPC seeking quashing of the order of cognizance. The present proceeding arises out of the said prayer.

However, in the course of the present proceedings, the learned counsel for the State filed a memo enclosing statements recorded under Section 180 of the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023, from two neighbours of the Petitioners and the family priest who had solemnized the marriage between Petitioner No.1 and Opposite Party No.2. According to the statements of the neighbour-witnesses, frequent quarrels and altercations within the matrimonial household were often loud enough to be heard outside, indicating ongoing discord. The neighbours specifically stated that Opposite Party No.2 was



subjected to both mental and physical cruelty at the hands of her in-laws, including verbal abuse and physical assault. It was further alleged in these statements that after the birth of the male child, Opposite Party No.2 was not provided adequate food and was physically assaulted, prompting her to leave for her parental home. These witnesses also stated that the Petitioners, following her departure, visited her paternal home and demanded a sum of ₹5,00,000.

6. The most important principle in exercising jurisdiction under Section 482 of the CrPC for quashing a criminal proceeding or FIR, as the case may be, is that the Court must, at the threshold, examine the allegations made in the FIR, police report, or complaint, along with the materials collected during investigation or inquiry, as the case may be, and take them at face value to determine whether a prima facie case, investigation, or proceeding against the accused is made out. Strictly speaking, the correctness of the allegations is not tested at this stage.

7. In the matter of *Somjeet Mallick Vs. State of Jharkhand and Others*, reported in **2024 INSC 772**, the Hon'ble Supreme Court has held as follows:-

“19. No doubt, a petition to quash the FIR does not become infructuous on submission of a police report under Section 173 (2) of the CrPC, but when a police report has been submitted,

particularly when there is no stay on the



investigation, the Court must apply its mind to the materials submitted in support of the police report before taking a call whether the FIR and consequential proceedings should be quashed or not. More so, when the FIR alleges an act which is reflective of a dishonest conduct of the accused.”

It is also held by the Hon’ble Supreme Court in the matter of *State of Bihar Vs. Sri Rajendra Agrawalla*, reported in **1996 (8) SCC 164**, as follows:-

“...the inherent power of the court under Section 482 of the Code of Criminal Procedure should be very sparingly and cautiously used only when the court comes to the conclusion that there would be manifest injustice or there would be abuse of the process of the court, if such power is not exercised. So far as the order of cognizance by a Magistrate is concerned, the inherent power can be exercised when the allegations in the First Information Report or the complaint together with the other materials collected during investigation taken at their face value, do not constitute the offence alleged. At that stage it is not open for the court either to shift the evidence or appreciate the evidence and come to the conclusion that no prima facie case is made out...”

8. It was further held in the matter of *State of Himachal Pradesh Vs. Shri Pirthi Chand and Anr.*, reported in **AIR 1996 SC 977**, by the Hon’ble Supreme Court held as follows:-

“13. When the remedy under Section 482 is available, the High Court would be loath and circumspect to exercise its extraordinary power



under Article 226 since efficacious remedy under Section 482 of the Code is available. When the Court exercises its inherent power under Section 482 the prime consideration should only be whether the exercise of the power would advance the cause of justice or it would be an abuse of the process of the Court. When Investigating Officer spends considerable time to collect the evidence and places the charge-sheet before the Court, further action should not be short-circuited by resorting to exercise inherent power to quash the charge-sheet. The social stability and order requires to be regulated by proceeding against the offender as it is an offence against the society as a whole. This cardinal principle should always be kept in mind before the embarking upon exercising inherent power. The accused involved in an economic offence destabilises the economy and causes grave incursion on the economic planning of the State. When the legislature entrusts the power to the Police Officer to prevent organised commission of the offence or offences involving moral turpitude or crimes of grave nature and are entrusted with power to investigate into the crime in intractable terrains and secretive manner in concert, greater circumspection and care and caution should be borne in mind by the High Court when it exercises its inherent power. Otherwise, the social order and security would be put in jeopardy and grave risk. The accused will have field day in destabilising the economy of the State regulated under the relevant provisions.”

9. Keeping the above parameters in mind, if the charge sheet and the FIR filed in the present case are examined and the impugned order is tested, it becomes evident that



the learned Magistrate, in taking cognizance, has not committed any illegality. Upon perusal of the materials on record, including the statements recorded under Section 180 BNSS of two neighbours and the priest who solemnized the marriage, it clearly emerges that the allegations of mental and physical cruelty, non-provision of food after childbirth, and demand of ₹5 lakhs by the in-laws are not unfounded at this stage. The allegations with respect to Petitioner No.4, however being not specific are vague. The FIR, along with the said statements, substantiate the substratum of the prosecution case and disclose a prima facie case, particularly against Petitioner Nos.1, 2 and 3. These materials attribute specific allegations that constitute the offences upon which cognizance has been taken by the learned Court below.

10. The contention raised by the learned counsel for the Petitioners, that cognizance has been taken mechanically and without application of mind, bears no significance. There is ample material gathered during the investigation, in addition to the FIR, which prima facie provides sufficient grounds to proceed to trial against the Petitioners.

All the grounds advanced by the learned counsel for the Petitioners, particularly with regard to the conduct of Opposite Party No.2 (wife), are matters to be appreciated



by the trial court during the course of the trial. The narration made by Opposite Party No.2 in the FIR, as well as the statements of the witnesses, cannot, at the threshold, be declared false, incorrect, or inadmissible so as to quash the proceedings at this stage.

11. As regards the decisions cited by the learned counsel for the Petitioners, in *Geeta Mehrotra and another Vs. State of U.P. and another*, reported in **2012 (10) SCC 741**, and *Digambar Vs. State of Maharashtra*, reported in **2024 INSC 1019**, the facts of those cases are clearly distinguishable from the case at hand. In *Geeta Mehrotra*, the Hon'ble Supreme Court held that where the FIR does not disclose specific allegations, particularly against co-accused in matrimonial disputes, it would be a clear abuse of the legal process to mechanically subject them to trial, unless the FIR reveals concrete allegations indicating their involvement in the alleged cruelty or harassment. However, in the present case, the FIR and accompanying material contain specific and detailed allegations against the Petitioners, which prima facie warrant trial. Therefore, the principles laid down in the above-cited decisions are not applicable to the present facts.

As far as the decision in the matter of *Digambar Vs. State of Maharashtra* is concerned, the Hon'ble Supreme



Court has held that the very initiation of the proceedings by the complainant is with an ulterior motive of pressurizing the son of the accused to consent to the divorce and the proceeding were used as a weapon in the person discord between the couple.

12. Similarly, as regards the facts stated in the aforesaid case does not in any manner fit into the facts and circumstances of the present case.

13. In view of the discussions made hereinabove, this Court is of the considered opinion that no specific and distinct allegations constituting the alleged offences are made out against Petitioner No.4, who is the sister-in-law of Opposite Party No.2. As such, continuation of the criminal proceeding against her would amount to abuse of the process of law. Accordingly, the order taking cognizance dated 19.08.2015 passed by the learned SDJM, Balasore in C.T. Case No. 2268 of 2014 arising out of Balasore Town P.S. Case No. 237 of 2014 is hereby quashed only in respect of Petitioner No.4.

However, so far as Petitioner Nos.1, 2 and 3 are concerned, this Court finds that there is sufficient prima facie material on record to proceed against them. The



allegations attributed to them require a trial and cannot be adjudicated at this stage under Section 482 of the Cr.P.C.

14. Accordingly, the CRLMC stands partly allowed.

(Chittaranjan Dash)
Judge

AKPradhan