IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JAIPUR BENCH, JAIPUR.

ORDER

Himanshu Sardana & ors. Vs. State of Rajasthan & Anr.

S.B. CR. MISC. PET. NO. 3561/2013.

under Section 482 Cr.P.C. for quashing of FIR No. 104/2013 registered at Police Station Mahila Thana, Jaipur (South).

Date of Order : 11th November, 2013.

PRESENT

HON'BLE MRS. JUSTICE NISHA GUPTA

Mr RS Tanwar, for petitioner. Mr Laxman Meena, Public Prosecutor.

BY THE COURT

This Misc. petition under Section 482 Cr.P.C., has been filed for quashing FIR No. 104/2013 registered at Police Station Mahila Thana, Jaipur (South) for offence under Section 498-A, 406 IPC and Section 3 and 4 of the Dowry Protection Act.

2. The brief facts of the case narrated in the petition are that complainant non petitioner No.2 filed a complaint before Judicial Magistrate No.12 alleging therein that her marriage took place with accused

petitioner No.1 on 5.7.2009 as per Hindu rituals and thereafter the present petitioner and his relatives demanded dowry and tortured her on which FIR No. 104/2013 has been lodged.

3. The only contention of the present petitioner is that respondent No.2 is not her legally wedded wife, hence FIR for the offence under Section 498A is not maintainable against him.

Per contra, the contention of the Public Prosecutor is that present petitioner No.1 himself has lodged a complaint against respondent No.2 and others which is placed on record as Annex.5 in which Para 5 speaks that marriage has solemnized between the parties on 5.7.2009, hence very basis of the contention of the present petitioners stood vanished.

4. The other contention of the present that respondent No.2 was petitioners is married whereas she has stated herself unmarried. This is the defence version which cannot be looked into for petitioners considering the merits of FIR in view of the fact that specific allegations of demand of dowry and torture have been levelled in the First Information Report. This Court will not go into the truthfulness or falsification of the facts and defence version of the petitioners could not be looked into by this Court Section 482 under the provisions of Allegations in the FIR makes out ingredients of cognizable offence and hence it has to be investigated.

There is no merit in the petition and the same is liable to be dismissed. Hence dismissed.

(NISHA GUPTA),J.

Gandhi/ 130

All corrections made in the judgment/order have been incorporated in the judgment/order being emailed.

Brij Mohan (Sr. P.A.