

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 304 of 2015**

1. Homeshwar, S/o. Mohanlal Jaiswal, Aged About 28 years, R/o. Village Seoni, Tah. & P.S. Champa, Civil & Rev. Distt. Janjgir Champa, Chhattisgarh.
2. Shiv Kumari, W/o. Mohanlal Jaiswal, Aged About 65 Years, R/o. Village Seoni, Tah. & P.S. Champa, Civil & Rev. Distt. Janjgir Champa, Chhattisgarh.

---- Petitioners

Versus

1. State of Chhattisgarh, Through: Station House Officer, Police Station Champa, Civil & Rev. Distt. Janjgir Champa, Chhattisgarh.
2. Lata Jaiswal, W/o. Homeshwar, Aged About 27 Years, R/o Village Seoni, Tah. & P.S. Champa, Civil & Rev. Distt. Janjgir Champa, Chhattisgarh.

---- Respondents

For Petitioners	:	Mr. Indrasen Sahu, Advocate.
For Respondent No.1	:	Ms. M.Asha, Panel Lawyer.
For Respondent No.2	:	Mr. Ishwar Jaiswal, Advocate.

Hon'ble Shri Justice Goutam Bhaduri**Order On Board****04/08/2015**

1. This is a petition to quash the proceeding of Criminal Case No.280/2009 pending before the Judicial Magistrate First Class, Champa, under Section 498-A, 325/34 of IPC. By the order dated 12.06.2012, the application filed for compromise in between the parties was dismissed. Therefore, the instant petition before this Court.
2. The brief facts of the case are that the marriage of the Complainant/ Respondent No.2 was solemnized with the Petitioner in the year 2001 and they were residing at village Seoni, District Janjgir-Champa. The differences took place in between the Respondent No.2 and the Petitioner and it led to assault. Thereafter, a report was lodged at Police

Station- Champa against the Petitioner No.1 & 2 by the Complainant. On the basis of such report, the final charge sheet was filed under Section 498-A read with Section 325 & 34 of IPC.

3. It is submitted by the parties that during pendency of the criminal case, the parties have compromised and do not want to continue with the criminal case and have filed an application under Section 320(2) of Cr.P.C.
4. During the course of proceeding, the respective parties, the Complainant and the Accused have appeared before the Court who are identified by their Advocates on having made enquiry by the State counsel. It is submitted by the Complainant that they have compromised the matter and are residing together for last four years. It is further stated that the compromise has been affected without any pressure or fear and they want to lead happy life and assured that they will further lead happy life without any chance of complaint.
5. The Hon'ble Supreme Court in ***Gian Singh v. State of Punjab & Another***¹ has laid down the following principles :

“61. The position that emerges from the above discussion can be summarised thus: the power of the High Court in quashing a criminal proceeding or FIR or complaint in exercise of its inherent jurisdiction is distinct and different from the power given to a criminal court for compounding the offences under Section 320 of the Code. Inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accord with the guideline engrafted in such power viz; (i) to secure the ends of justice or (ii) to prevent abuse of the process of any Court. In what cases power to quash the criminal proceeding or complaint or F.I.R may be exercised where the offender and victim have settled their dispute would

¹(2012) 10 SCC 303

depend on the facts and circumstances of each case and no category can be prescribed. However, before exercise of such power, the High Court must have due regard to the nature and gravity of the crime. Heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. cannot be fittingly quashed even though the victim or victim's family and the offender have settled the dispute. Such offences are not private in nature and have serious impact on society. Similarly, any compromise between the victim and offender in relation to the offences under special statutes like Prevention of Corruption Act or the offences committed by public servants while working in that capacity etc; cannot provide for any basis for quashing criminal proceedings involving such offences. But the criminal cases having overwhelmingly and pre-dominantly civil flavour stand on different footing for the purposes of quashing, particularly the offences arising from commercial, financial, mercantile, civil, partnership or such like transactions or the offences arising out of matrimony relating to dowry, etc. or the family disputes where the wrong is basically private or personal in nature and the parties have resolved their entire dispute. In this category of cases, High Court may quash criminal proceedings if in its view, because of the compromise between the offender and victim, the possibility of conviction is remote and bleak and continuation of criminal case would put accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case despite full and complete settlement and compromise with the victim. In other words, the High Court must consider whether it would be unfair or contrary to the interest of justice to continue with the criminal proceeding or continuation of the criminal proceeding would tantamount to abuse of process of law despite settlement and compromise between the victim and wrongdoer and whether to

secure the ends of justice, it is appropriate that criminal case is put to an end and if the answer to the above question(s) is in affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding.

62. In view of the above, it cannot be said that *B.S. Joshi, Nikhil Merchant and Manoj Sharma* were not correctly decided. We answer the reference accordingly. Let these matters be now listed before the Bench(es) concerned”

6. The Hon'ble Supreme Court in ***B.S.Joshi & Ors. v. State of Haryana & Anr.***² has held as under :

“14. There is no doubt that the object of introducing Chapter XX-A containing Section 498A in the Indian Penal Code was to prevent the torture to a woman by her husband or by relatives of her husband. Section 498A was added with a view to punishing a husband and his relatives who harass or torture the wife to coerce her or her relatives to satisfy unlawful demands of dowry. The hyper-technical view would be counter productive and would act against interests of women and against the object for which this provision was added. There is every likelihood that non-exercise of inherent power to quash the proceedings to meet the ends of justice would prevent women from settling earlier. That is not the object of Chapter XXA of Indian Penal Code.

15. In view of the above discussion, we hold that the High Court in exercise of its inherent powers can quash criminal proceedings or FIR or complaint and Section 320 of the Code does not limit or affect the powers under Section 482 of the Code.”

7. The principles laid down by the Supreme Court clearly leads to an irresistible conclusion that a dispute which arise out of a matrimonial nature where the wrong is basically private or personal in nature and

²(2003) 4 SCC 675

parties have resolved their entire dispute, the High Court may quash the criminal proceedings. If the High Court finds it to be unfair and contrary to the interest of justice to continue with the criminal proceeding despite settlement and compromise between the victim and the wrongdoer and make put to an end to the criminal case.

8. In the instant case in hand, the Petitioner No.1 is the Husband and the Petitioner No.2 is the Mother-in-law and the Complainant is Lata Jaiswal. He submits that they are living happily and they have amicably settled the dispute and no longer want to continue with such rigor of criminal case and want to further lead a happy matrimonial life. The expression made by the parties before the Court appears to be genuine and bonafide. The affidavit in this case has also been filed by the Complainant in support of the contention.
9. In view of the aforesaid law laid down by the Supreme Court and the fact that the parties have settled their dispute amicably without any pressure or fear, it would be in the interest of justice to allow the petition and quash the proceeding of criminal case pending before the Judicial Magistrate First Class, Champa.
10. Accordingly, the petition is allowed and consequently, it is ordered that the proceeding of Criminal Case No.280/2009 pending before the Judicial Magistrate First Class, Champa, under Section 498A, 325/34 is quashed. The Petitioners are acquitted of the said charges under Section 498-A, 325/34 of IPC.

Sd/-
(Goutam Bhaduri)
JUDGE