

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 398 of 2015**

1. Tabrej Ansari, S/o. Mohd. Naushad Ansari, Aged About 29 Years, R/o. Charcha Colliery, Near Nepal Gate, P.S. Charcha, Distt. Korla, Chhattisgarh
2. Shamshad Ansari, S/o. Mohd. Naushad Ansari, Aged About 28 Years, R/o. Charcha Colliery, Near Nepal Gate, P.S. Charcha, Distt. Korla, Chhattisgarh
3. Smt. Farida Khatun, W/o. Shamshad Khan, Aged About 30 Years, R/o. Charcha Colliery, Near Nepal Gate, P.S. Charcha, Distt. Korla, Chhattisgarh

---- Petitioners**Versus**

- State Of Chhattisgarh, Through Police Station - Sarkanda, Distt. Bilaspur, Chhattisgarh
- Smt. Shabana Khatun, W/o. Tabrej Ansari, Aged About 28 Years, R/o. Mominpura, Ambikapur, P.S. & Distt. Ambikapur, Distt. Surguja, Chhattisgarh

---- Respondents

For Petitioners	:	Mr. Manoj K. Sinha, Advocate.
For Respondent No.1	:	Mr. Arvind Shukla, Panel Lawyer.
For Respondent No.2	:	Mr. Syed Majid Ali, Advocate.

Hon'ble Shri Justice Goutam Bhaduri**Order On Board****20/08/2015**

1. This petition is against the order dated 25.04.2015 passed by the Court of Judicial Magistrate First Class, Bilaspur, in Criminal Case No.205/2013 captioned as State v. Tabrej Ansari & Others. By such order, an application moved under Section 320(2) of Cr.P.C. by the petitioners and the complainant has been dismissed. The application was for compounding the offence under Section 498-A of IPC.
2. The brief facts of the case are that the petitioner No.1 Tabrej Ansari was married to the complainant Smt. Shabana Khatun in the year 2009 at Ambikapur. Subsequently, the marriage got disturbed and in the year 2013 and a report was made by the respondent No.2 in the Police Station Ambikapur that she was subjected to cruelty for demand of

dowry. It was further stated that she was subjected to manhandling and was force to leave the house. Consequently, on such report, a criminal case under Section 498-A of IPC was registered against the petitioner. The charge sheet in the case was filed before the Judicial Magistrate First Class, Bilaspur.

3. During the course of trial, an application for compromise was filed between Shabana Khatun first party and Tabrej Ansari being the second party, wherein, it was stated that the parties have mutually agreed to settle the case and in lieu of the compromise so entered upon and an amount of Rs.21,786/- which was payable as Mehar has been paid. It was further agreed that the goods which were given as a gift during the marriage would also be returned. The parties are present before this Court and on query being made by the State counsel, the respondent No.2 who is present in person before the Court accepts that the amount of Mehar has been received as also confirms the fact that the goods have also been received. It is further stated that without any fear and pressure the compromise has been arrived at and further she do not want to continue with the criminal case.
4. 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)

¹(2012) 10 SCC 303

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 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”

5. 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.”

²(2003) 4 SCC 675

6. 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 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.
7. Consequently, in view of the principles laid down by the Hon'ble Supreme Court and the fact that since the complainant Shabana Khatun has stated that she is living separately and she do not want to continue with the criminal case, as 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, Bilaspur.
8. Accordingly, the petition is allowed and consequently, the order dated 25.04.2015 passed by the Judicial Magistrate First Class, Bilaspur, is set aside. In the result, the proceeding of Criminal Case No.205/2013 pending before the Judicial Magistrate First Class, Bilaspur, under Section 498A is quashed. The petitioners are acquitted of the charges.

Sd/-
(Goutam Bhaduri)
JUDGE