

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 456 of 2015

1. Amit, S/o Rajendra Saluja, Aged About 26 years,
2. Gulshan, S/o Rajendra Saluja, Aged About 23 Years,
3. Rajendra, S/o Late Madanlal Saluja, Aged About 47 years,
4. Smt. Kamlesh, S/o Rajendra Saluja, Aged About 44 years,
5. Smt. Santosh, Wd/o Late Madanlal Saluja, Aged About 64 Years,

All are R/o Godpara, Near Gurudwara, Bilaspur, Distt. Bilaspur (C.G.)

6. Smt. Harpreet Kaur, Aged About 25 Years, W/o Shri G. Singh, R/o Nagpur (Khamla) (Maharashtra).

---- Petitioners

Versus

State of Chhattisgarh through the Station House Officer, Police Station City Kotwali, Bilaspur, Distt. Bilaspur Chhattisgarh.

---- Respondent

For Petitioners – Shri Vinay Dubey and Shri Suryakant Mishra, Advocate.

For Respondent/State – Shri Arvind Shukla, Panel Lawyer.

Hon'ble Shri Justice Goutam Bhaduri

Order

09/07/2015

1. This is a petition against the order dated 18/05/2015 passed by the court of Judicial Magistrate First Class, Bilaspur in Criminal Case No.630/2013 captioned as State of Chhattisgarh Vs. Amit and others. By such order, an application filed by the petitioner No.6/wife under section 320 of Cr.P.C. for compounding the offence under section 498-A of IPC was dismissed.

2. Marriage of the petitioner No.1 Amit along with petitioner No.6 Smt. Harpreet Kaur was solemnized on 30/04/2009 at Central Gurudwara, Godpara Bilaspur and out of the wedlock child was also born. On

19/07/2010 a report was lodged by petitioner No.6, Smt. Harpreet Kaur wife against the petitioners No.1 to 5 for harassment, torture and demand of dowry. Subsequently, on investigation a charge sheet was filed under Section 498-A read with section 34 of IPC. The charge sheet was filed in Crime No.240/2010 against the petitioners No.1 to 5 which is pending before the Judicial Magistrate Class-I Bilaspur. In such proceedings, an application to compound the offence was filed on behalf of the complainant Smt. Harpeet Kaur that due to some family dispute and misunderstanding a report was lodged and subsequently dispute have been settled between the parties and therefore since the matter has been resolved, the parties thereto wanted to compromise the criminal case and put an end to it. Said application was supported by an affidavit. Learned Judicial Magistrate Class-I while adjudicating the application, by an order dated 18/05/2015 dismissed the application on the ground that Section 498-A read with 34 of IPC is not compoundable.

3. During the course of proceeding before this court parties are present in person along with advocate who have been identified by them also the complainant. Instant petition is by the accused as also the complainant. On having made query by the learned State counsel petitioner No.6 Harpeet Kaur also admitted that she has compromised the issue with the petitioners No.1 to 5.

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

1(2012) 10 SCC 303

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 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 predominatingly 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

2(2003) 4 SCC 675

Section 320 of the Code does not limit or affect the powers under Section 482 of the Code.”

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. In the instant case in hand petitioner No.6 who is wife and complainant have categorically stated and filed petition jointly with the accused/petitioners No.1 to 5 that they have compromised the issue and settled the dispute and no longer want to continue such rigor of criminal case. It is stated before the court that both parties are separated and living separately.

8. Consequently, in view of principles laid down by the Hon'ble Supreme Court and in view of the facts of the case since complainant Smt. Harpeet Kaur has stated that she is living separately which is also admitted by the petitioner No.1 and taking into submission of parties the petition for compromise preferred is without any undue influence or favour, it would be in the interest of justice to quash the proceeding which are pending before the criminal court. Therefore, the application to compromise the case under Section 498-A read with 34 of IPC is allowed.

The order dated 18/05/2015 passed by the Judicial Magistrate First Class, Bilaspur is set aside. In a result, proceedings of Criminal Case No.630/2013 pending before JMFC, Bilaspur is quashed.

9. Accordingly, Cr.M.P. stands allowed.

Sd/-
(Goutam Bhaduri)
JUDGE