

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 475 of 2015**

1. Satish Sahu S/o Balaram Sahu Aged About 34 years
2. Balaram S/o Ramprasad Sahu Aged About 58 Years
3. Smt. Radha Bai W/o Balaram Sahu Aged About 31 Years
4. Pushpa D/o Balaram Sahu Aged About 30 Years
5. Vinod Sahu S/o Balaram Sahu Aged About 27 Years
6. Smt. Mamta Sahu W/o Satish Sahu Aged About 27 Years
(Complainant)

All resident of Village Kota, Police Station Newra, Civil And Revenue Distt.
Raipur Chhattisgarh

---- Petitioners

Versus

State of Chhattisgarh Through District Magistrate, Raipur, District Raipur
Chhattisgarh

---- Respondent

For Petitioners	:	Shri Anil Das Kuldeep, Advocate
For Respondent/State	:	Shri Arvind Shukla, Panel Lawyer

Hon'ble Shri Justice Goutam Bhaduri**Order On Board****13/07/2015**

1. This is a petition under Section 482 of the Code of Criminal Procedure against order dated 23-7-2014 passed by the Judicial Magistrate First Class, Tilda in Criminal Case No.16/2014 (State of Chhattisgarh v. Satish Sahu and others). By the impugned order, an application preferred by complainant/petitioner No.6 Smt. Mamta Sahu under Sections 320(1) and 320(2) of the Code of Criminal Procedure for compromise was disposed of to the extent of allowing compromise between accused/petitioners No.1 to 5 and complainant/petitioner No.6 in respect of charge under Section 506B of the Indian Penal Code and thereby acquitting accused/petitioners

No.1 to 5 of the charge framed under Section 506B of the Indian Penal Code, but disallowing them to compromise in respect of charge under Section 498-A of the Indian Penal Code.

2. Brief facts of the case are that complainant/petitioner No.6 Smt. Mamta Sahu was married to accused/petitioner No.1 Satish Sahu and on a complaint made by the complainant, a case under Sections 498-A and 506B of the Indian Penal Code was registered against the accused/petitioners No.1 to 5. During the pendency of such case, i.e., Criminal Case No.16/2014 (State of Chhattisgarh v. Satish Sahu and others), both the husband and the wife entered into a compromise and thereafter, as stated, they started living together.
3. Today, accused/petitioners No.1 to 5, namely, Satish Sahu, Balaram, Smt. Radha Bai, Pushpa, Vinod Sahu and complainant/petitioner No.6 Smt. Mamta Sahu are present in person before this Court and identified by their counsel Shri Anil Das Kuldeep, Advocate. Complainant wife/petitioner No.6 Smt. Mamta Sahu submitted that she has compromised with her husband Satish Sahu (petitioner No.1) and they are living together. The instant petition is also supported by an affidavit of complainant Mamta Sahu. The statement of compromise of complainant Mamta Sahu recorded before the Judicial Magistrate First Class, Tilda is also enclosed with this petition. In her statement of compromise, the complainant wife has stated that she has compromised with the accused/petitioners No.1 to 5 and does not want to prosecute Criminal Case No.16/2014 any further. Husband Satish Sahu also states before this Court that no chance of complaint would be given to the wife.
4. The Hon'ble Supreme Court, in **Gian Singh v. State of Punjab and**

another¹, laid down the following principle:

“**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 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

1 (2012) 10 SCC 303

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 and others v. State of Haryana and another**², 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.”

6. The aforementioned principles laid down by the Hon'ble Supreme Court clearly leads to an irresistible conclusion that a dispute which arises out of a matrimonial nature where the wrong is basically private or personal in nature and parties have resolved their entire disputes, 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 proceedings despite settlement and compromise between the victim and the wrongdoer, it may put the criminal case to an end.
7. In the instant case, accused/petitioners No.1 to 5 and complainant/petitioner No.6 Mamta Sahu are present in person before this Court today. They have amicably settled the dispute. Complainant wife Mamta Sahu states that she is living with husband Satish Sahu happily and does not want to continue Criminal Case No.16/2014. The expression of both the parties appears to be just and *bona fide*.
8. In view of the aforesaid existing fact and the law laid down by the Hon'ble Supreme Court, it would be in the interest of justice to allow the instant petition and quash the proceedings of Criminal Case No.16/2014 pending before the Judicial Magistrate First Class, Tilda between State and Satish Sahu and others.

9. In the result, the instant petition is allowed, the proceedings of Criminal Case No.16/2014 pending before the Judicial Magistrate First Class, Tilda under Section 498-A of the Indian Penal Code are quashed and accused/petitioners No.1 to 5 are acquitted of the charge framed against them under Section 498-A of the Indian Penal Code. Accused/petitioners No.1 to 5 are, on the ground of compromise between the parties, already acquitted of the charge framed against them under Section 506B of the Indian Penal Code by the Court below.

Sd/-
(Goutam Bhaduri)
Judge