

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 611 of 2015

1. Siddheshwar Soni S/o Late Shri Ramsharan Soni Aged About 45 years R/o Village- Bevara Putpura (Maro), Police Station- Nandghat, District- Durg, Chhattisgarh
2. Smt. Janki Soni W/o Late Shri Ramsharan Soni Aged About 77 Years R/o Village- Bevara Putpura (Maro), Police Station- Nandghat, District- Durg, Chhattisgarh
3. Smt. Sarojani Soni, W/o Shri Pardeshi Soni Aged About 50 Years R/o Birkona, District- Bilaspur, Chhattisgarh

---- Applicants

Versus

1. Smt. Shobha Soni W/o Shri Siddheshwar Soni Aged About 40 Years R/o College Ward, Behind Electricity Office, Dangania, Raipur, Tehsil & District- Raipur, Chhattisgarh
2. State Of Chhattisgarh Through: Police Station- Mahila Thana, Raipur, Chhattisgarh

---- Respondents

For Applicants – Shri D.K. Gwalre, Advocate.
 For Respondent No.1 – Shri Keshav Dewangan, Advocate.
 For Respondent No.2/State – Smt. M. Asha, PL.

Hon'ble Shri Justice Goutam Bhaduri

Order

3/08/2015

1. This is a petition against the order dated 15/06/2015 passed by the learned Judicial Magistrate Class-I, Raipur in Criminal Case No.589/2011 which is pending trial under Section 498-A read with Section 34 of IPC and application having been moved under Section 320 of Cr.P.C. for compromise by the respective parties before the court below, same was dismissed on the ground that offence under Section 498-A read with Section 34 of IPC cannot be compounded.
2. The brief facts of the case are that non-applicant No.1 Shobha Soni was married to applicant No.1 Siddheshwar Soni on 24/06/2002 and after their wedlock they were blessed with two children. On difference being

arose between the parties, an FIR was lodged on 3/01/2007 for commission of offence under Section 498-A read with Section 34 of IPC against the applicants.

3. It is submitted before this court that parties have thereafter amicably settled the dispute and thereby filed an application before the learned court below for compounding of offence under Section 498-A read with Section 34 of IPC which was dismissed by the learned court below by the order dated 15/06/2015 (Annexure A-2). The parties are present before this court. On query it was stated that parties have amicably settled the dispute between them. It is submitted that since they are living separately, they want to live separately and happily, consequently, proceedings under Section 498-A read with Section 34 of IPC may be quashed.

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) 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

¹ (2012) 10 SCC 303

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
² (2003) 4 SCC 675

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 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, applicant No.1 who is husband, applicant No.2 mother-in-law and applicant No.3 sister-in-law and the complainant non-applicant No.1 submits that they have amicably settled the dispute and no longer want to continue with the rigor of criminal case. Expression of both the parties who have appeared before this court appears to be just and bonafide. This is also further fortified by affidavit.

8. Therefore, applying the above principles laid down by the Hon'ble Supreme Court in facts of the case and 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 pending before Judicial Magistrate First Class, Raipur in Criminal Case No. 589/2011 and accordingly it is quashed.

9. Consequently, the application preferred under section 482 of Cr.P.C. is allowed. Consequent there to compromise application is also allowed. The applicants are acquitted of the said charges.

Sd/-
(Goutam Bhaduri)
JUDGE