

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CR.M.P. No. 675 of 2015

1. Sourabh Dwivedi, S/o. Anil Dwivedi, Aged About 35 Years.
2. Smt. Sandhya Dwivedi, W/o. Anil Dwivedi, Aged About 58 Years,

Both are R/o. House No. 153, Mohan Nagar, Durg, Police Station
Mohan Nagar, District Durg Chhattisgarh.
3. Smt. Subhra Tiwari, W/o. Vinod Tiwari, Aged About 33 Years, R/o
Sector 9 Bhilai, Police Station Bhilai Nagar, District Durg Chhattisgarh.

---- Petitioners

Versus

1. State Of Chhattisgarh, Through The Station House Officer, Police
Station Mohan Nagar, District Durg Chhattisgarh.
2. Smt. Sneha Dwivedi, W/o. Sourabh Dwivedi, Aged About 29 Years,
R/o Village and Post Mohtara, Police Station Kasdol, District
Balodabazar-Bhatapara Chhattisgarh.

---- Respondents

For Petitioners	:	Mr. Atanu Ghosh, Advocate
For Respondent No.1/State	:	Mr. Arvind Shukla, P.L.
For Respondent No.2	:	Mr. Umesh Sharma, Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

24/08/2015

1. This petition is against the order dated 16/04/2015, passed by the
Chief Judicial Magistrate, Durg in Criminal Case No. 3290/2014 styled
as State Vs. Sourabh Dwivedi and others. By such order, an

application filed under Section 320 of Cr.P.C. for compounding of offence under section 498-A of IPC, has been rejected.

2. Petitioner No.1, Sourabh Dwivedi was married to Smt. Sneha Dwivedi, the respondent No.2 on 29.06.2012 at Raipur. Subsequently, the marriage got disturbed and relationship between the parties became strange. Consequently, it led to police report and therefore a case was registered under section 498-A of IPC. The said report having been made, on investigation the charge sheet was filed before the Judicial Magistrate at Durg under Section 498-A of IPC.
3. The said criminal case while was pending, on 27/03/2015, before the Chief Judicial Magistrate, Durg the parties entered has arrived at a compromise as the mutual divorce has been affected between the parties, consequently, they do not want to continue on the criminal case and compounding the case was sought for. The said prayer was rejected by the order dated 16.04.2015. Hence this petition.
4. During the proceedings before the court, the accused/petitioners No.1 to 3 present. The respondent No.2, Smt. Sneha Dwivedi, also present, who has been identified by the counsel for the petitioners. On being interrogated by the State Counsel, she submits that she has settled the dispute and do not want to carry on with the criminal case.
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

1(2012) 10 SCC 303

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 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

2(2003) 4 SCC 675

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. Further more Hon'ble Supreme Court in case law reported in **(2013) 4 SCC 58** in between **Jitendra Raghuvanshi and others Vs. Babita Raghuvanshi and another** has examined scope of compromise under Section 320 of Cr.P.C. in offence of non-compoundable nature.
8. Hon'ble Supreme Court referred to various cases and has laid down that in cases of matrimonial matters, court should exercise power under Section 482 of Cr.P.C. sparingly and only it may exercise when the court is convinced, on the basis of material on record, that allowing the proceedings to continue would be an abuse of process of court or that the ends of justice require that the proceedings ought to be quashed.
9. In the instant case, since the complainant who is present in the court submits that matter has already been settled and she is living separately and mutual divorce has already been arrived at and she do not want to continue with the criminal case on the basis of compromise and further submits that compromise is preferred without any undue influence or favour, therefore in the opinion of this court, it would be in the interest of justice to quash the proceeding of the Criminal Case No.3290/2014 pending before CJM, Durg.

10. In a result, order dated 16/04/2015 is set aside and the proceedings of the Criminal Case No.3290/2014 pending before CJM, Durg are quashed. Petitioners are acquitted of their charges.
11. Accordingly, Cr.M.P. stands allowed.

Sd/-
(Goutam Bhaduri)
Judge

Balram