

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 1066 of 2015

1. Sheikh Noore Ilahi Alias Nooru S/o Sheikh Noor Mohammad Alias Sheikh Fakira, Aged About 30 Years R/o Near Nagina Masjid, Chatidih, Sarkanda, Police Station Sarkanda, Bilaspur District Bilaspur Chhattisgarh
2. Naseem Begum W/o Sheikh Noor Mohammad Alias Shiekh Fakira Aged About 45 Years R/o Near Nagina Masjid, Chatidih, Sarkanda, Police Station Sarkanda, Bilaspur District Bilaspur Chhattisgarh

---- Petitioners

Versus

1. State of Chhattisgarh Through Station House Officer, Police Station Mahila Thana Bilaspur Chhattisgarh
2. Smt. Sarvari Begum W/o Sheikh Noore Ilahi Alias Nooru Aged About 25 Years R/o Near Nagina Masjid, Chatidih, Sarkanda, Police Station Sarkanda Bilaspur, District Bilaspur Chhattisgarh

---- Respondent

For the petitioners	:	Mr. Rajeev Bharat, Advocate
For the State/R-1	:	Mr. Omprakash Sahu, Govt. Lawyer.
For Respondent No.2	:	Mr. Neeraj Choubey, Advocate

Hon'ble Shri Justice Goutam Bhaduri

Judgment /Order on Board

10.12.2015

1. The instant petition is filed to quash the entire proceedings of Criminal Case No.568/2013 pending before the JMFC, Bilaspur, wherein by order dated 07.01.2013 the charges have been framed u/s 498- of IPC.
2. As per the petition, Petitioner no.1 Sheikh Noore Hahi @ Nooru was married to respondent No.2 Smt. Savari Begum at Bilaspur on 11.04.2015. After the marriage they started living together, however, their relations could not go long. Consequently a report was made by respondent No.2 on 21.04.2012 and thereby the offence u/s 498-A, 323, 506, 34 IPC was registered by the Police. The order sheet

would show that the charges were framed and a case u/s 498-A was found to be committed by the petitioner and the trial is going on.

3. It is stated that during the pendency of proceedings, both the parties have come forward to settle the dispute amicably and have thus entered into compromise and both Petitioner No.1 and respondent No.2 started living together and as a result, both the parties are present before this Court with a prayer to compound the offence.
4. Learned State Counsel made a detailed enquiry from Respondent No.2 Smt. Savari Begum who is present in person. She also confirms the fact that she is living together with petitioner No.1 and she filed an application u/s 320 of Cr.P.C., without fear and pressure to compound the offence wherein it is stated that petitioner No.1 and respondent No.2 have mutually compromised the matter and they are living together for the last one year and therefore she does not want to continue the proceedings of Criminal Case No.568/2013 pending before the JMFC against the petitioners.
5. The petitioners have also filed petition u/s 320(5)(9) of Cr.P.C., to compound the offence u/s 498-A, 506, 323, 324 & section 34 of IPC and to quash the proceedings pending in Criminal Case No.568/2013 before the JMFC wherein it is stated that petitioner No.1 and respondent No.2 have amicably settled the dispute and they are living together.
6. The Supreme Court in case of ***Gian Singh Vs. State of Punjab and (2012)10 SCC 303 : 2012 Cri.L.J4934*** laid down guidelines for quashing of the non-compoundable offences in the event of compromise being entered into between the parties. Para 49, 50 53, 54 are relevant here and quoted below:

“49. Section 482 of the Code, as its very language suggests, saves the inherent power of the High Court which it has by virtue of it being a superior court to prevent abuse of the

process of any court or otherwise to secure the ends of justice. It begins with the words, 'nothing in this Code' which means that the provision is an overriding provision. These words leave no manner of doubt that none of the provisions of the Code limits or restricts the inherent power. The guideline for exercise of such power is provided in Section 482 itself i.e., to prevent abuse of the process of any court or otherwise to secure the ends of justice. As has been repeatedly stated that Section 482 confers no new powers on High Court; it merely safeguards existing inherent powers possessed by High Court necessary to prevent abuse of the process of any Court or to secure the ends of justice. It is equally well settled that the power is not to be resorted to if there is specific provision in the Code for the redress of the grievance of an aggrieved party. It should be exercised very sparingly and it should not be exercised as against the express bar of law engrafted in any other provision of the Code.

50. In different situations, the inherent power may be exercised in different ways to achieve its ultimate objective. Formation of opinion by the High Court before it exercises inherent power under Section 482 on either of the twin objectives, (i) to prevent abuse of the process of any court or (ii) to secure the ends of justice, is a sine qua non.

53. Quashing of offence or criminal proceedings on the ground of settlement between an offender and victim is not the same thing as compounding of offence. They are different and not interchangeable. Strictly speaking, the power of compounding of offences given to a court under Section 320 is materially different from the quashing of criminal proceedings by the High Court in exercise of its inherent jurisdiction. In compounding of offences, power of a criminal court is circumscribed by the provisions contained in Section 320 and the court is guided solely and squarely thereby while, on the other hand, the formation of opinion by the High Court for quashing a criminal offence or criminal proceeding or criminal complaint is guided by the material on record as to whether the ends of justice would justify such exercise of power although the ultimate consequence may be acquittal or dismissal of indictment.

54. Where High Court quashes a criminal proceeding having regard to the fact that dispute between the offender and victim

has been settled although offences are not compoundable, it does so as in its opinion, continuation of criminal proceedings will be an exercise in futility and justice in the case demands that the dispute between the parties is put to an end and peace is restored; securing the ends of justice being the ultimate guiding factor. No doubt, crimes are acts which have harmful effect on the public and consist in wrong doing that seriously endangers and threatens well-being of society and it is not safe to leave the crime- doer only because he and the victim have settled the dispute amicably or that the victim has been paid compensation, yet certain crimes have been made compoundable in law, with or without permission of the Court. In respect of serious offences like murder, rape, dacoity, etc; or other offences of mental depravity under IPC or offences of moral turpitude under special statutes, like Prevention of Corruption Act or the offences committed by public servants while working in that capacity, the settlement between offender and victim can have no legal sanction at all. However, certain offences which overwhelmingly and predominantly bear civil flavour having arisen out of civil, mercantile, commercial, financial, partnership or such like transactions or the offences arising out of matrimony, particularly relating to dowry, etc. or the family dispute, where the wrong is basically to victim and the offender and victim have settled all disputes between them amicably, irrespective of the fact that such offences have not been made compoundable, the High Court may within the framework of its inherent power, quash the criminal proceeding or criminal complaint or F.I.R if it is satisfied that on the face of such settlement, there is hardly any likelihood of offender being convicted and by not quashing the criminal proceedings, justice shall be casualty and ends of justice shall be defeated. The above list is illustrative and not exhaustive. Each case will depend on its own facts and no hard and fast category can be prescribed.”

7. Reading of the above quoted paragraphs would show that Hon'ble Supreme Court has held that where certain offences which overwhelmingly and predominantly bear civil flavour having arisen out of civil, mercantile, commercial, financial, partnership or such like transactions where the wrong is basically to the victim and the offender and the victim have settled all the disputes *inter-se*

amicably, then irrespective of the fact that such offences have not been made compoundable, the High Court may within the framework of its inherent powers, quash the criminal proceeding or criminal complaint or F.I.R., if it is satisfied that on the face of such settlement, there is hardly any likelihood of offender being convicted and by not quashing the criminal proceedings, justice shall be casualty and ends of justice shall be defeated.

8. By application of the aforesaid principles to the instant case, since the complainant/respondent No.2 has stated on oath by filing affidavit before the Court that the complainant and petitioner have amicably settled the dispute and they are living together and considering the averments made in application for compromise which is supported by the affidavit, this Court is satisfied that there is hardly any likelihood of the offender being convicted in the teeth of submission made by the complainant.
09. Therefore, considering the nature of the dispute and since the parties have entered into compromise and the complainant/respondent No.2 are living together and the wife/respondent No.2 does not want to continue the criminal proceedings against the petitioner any longer, I deem it expedient to exercise the inherent power conferred under section 482 Cr.P.C., in the instant case. Accordingly, the entire proceedings of Criminal Case No. 568/2013 (State Vs. Sheikh Noore Ilahi and another) pending in the Court of learned JMFC, Bilaspur against the petitioners are quashed. Consequently, the petitioners are acquitted of the charge.
10. In the result, the petition is allowed.

Sd/-
GOUTAM BHADURI
JUDGE