

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CR.M.P. No. 1095 of 2015

1. Mukesh Kumar, S/o. Ramnarayan Patel, Aged About 32 Years.
2. Ramnarayan, S/o. Shatrughan Patel, Aged About 54 Years.
3. Manmohan Singh, S/o. Ramnarayan Patel, Aged About 34 Years.
4. Shyama Patel, W/o. Ramnarayan Patel, Aged About 50 Years (wrongly mentioned as son of Ramnarayan Patel in order impugned).

All are R/o. Kabaripali, P.S. Dabhra, District Janjgir Champa, Chhattisgarh

---- Petitioners

Versus

1. State Of Chhattisgarh, Through : Station House Officer, Police Station Dabhra, Civil & Revenue District Janjgir Champa, Chhattisgarh.
2. Smt. Chameli Patel @ Kavita, W/o. Mukesh Kumar Patel, Aged About 30 Years, R/o. Village Pacheda, P.S. Kotraroad, Civil & Revenue District Raigarh, Chhattisgarh.

---- Respondents

For Petitioners	: Mr. Ishwar Jaiswal, Advocate
For Respondent No.1/State	: Mr. O.P. Sahu, Govt. Advocate
For Respondent No.2	: Mr. Akhtar Hussain, Advocate.

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

11/12/2015

1. This petition is against the order dated 03/11/2015, passed by the Judicial Magistrate First Class, Dabhra, District Janjgir-Champa (C.G.), in Criminal Case No. 138/2015. By such order, an application under Section 320 of Cr.P.C. making prayer for compounding of the offence has been dismissed.
2. The brief facts of the case are that petitioner No.1, Mukesh Kumar, was married to the respondent No.2, Smt. Chameli Patel, on

12.06.2011. Subsequently, the marriage could not be allowed which resulted into report and consequently a case under Section 498A read with Section 34 of I.P.C. was filed and the petitioners were inculpated as accused.

3. During the pendency of the criminal case, the parties entered into a compromise and it is contended that they have settled their dispute and the complainant/ respondent No.2 is now residing separately and having compromised the case she do not want to continue with the criminal proceedings.
4. Before this Court all the parties are present. The complainant, Smt. Chameli Patel, who is the wife of the petitioner No.1, Mukesh Kumar, on being asked by the State counsel as to whether she has arrived into compromise, she affirmed the fact that she is living separately and she do not want to continue with the criminal proceeding and she has received the alimony in lieu of the compromise. It is further stated that the compromise has been affected without any fear, undue influence or any pressure. Consequently, the criminal case pending before the Court below be quashed.
5. The Hon'ble Supreme Court in ***Gian Singh v. State of Punjab & Another¹*** 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

1. (2012) 10 SCC 303

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-dominatingly 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 inherent power to quash the proceedings to meet the ends of justice would

2. (2003) 4 SCC 675

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. Furthermore, the Hon'ble Supreme Court in case of ***Jitendra Raghuvanshi and others v. Babita Raghuvanshi and another***³ has examined scope of compromise under Section 320 of Cr.P.C. in offence of non-compoundable nature.
8. The 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, the wife/complainant is present in person before this Court and submits that the matter has already been settled and she is living separately and they do not want to continue with the criminal case. Copy of compromise application is also placed on record. On enquiry being made, complainant/wife submits that she is living separately and submits that the compromise has been done without any fear or favour. Therefore, considering the facts of this case, it would be in the interest of justice to quash the proceeding of Criminal Case No.138/2015, pending before the Judicial Magistrate First Class, Dabhra, District – Janjgir-Champa (C.G.).

3 (2013) 4 SCC 58

10. In the result, proceedings of Criminal Case No.138/2015 pending before Judicial Magistrate First Class, Dabhra, District Janjgir-Champa is quashed. Petitioners are acquitted of the charges.
11. Accordingly, the petition stands allowed.

Sd/-
(Goutam Bhaduri)
Judge

Ashok