

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 1078 of 2014

Chanpreet Kaur D/o Shri Avtar Singh Aged About 31 Years R/o
Gurunanak Timber Merchant, Jairam Nagar, Tahsil & P.S. Masturi,
Civil & Revenue Distt. Bilaspur C.G.

---- Applicant

Versus

1. Hardeep Singh Tuteja S/o Shri Dr. Santosh Singh Tuteja Aged
About 34 Years R/o Jamudia, P.S. Jamudia, Distt. Wardhaman (West
Bengal
2. Harcharan Kaur W/o Dr. Santosh Singh Tuteja Aged About 78
Years R/o Jamudia, P.S Jamudia Distt. Wardhaman West Bengal
3. State Of C.G. Through Station House Officer P/s City Kotwali,
Raigarh Distt. Raigarh C.G.

---- Respondents

For applicant – Shri Abhishek Saraf, Advocate.
For Respondents No.1 &2 – Shri Ashish Gupta, Advocate.
For Respondent No.3/State – Smt. M. Asha, PL.

Hon'ble Shri Justice Goutam Bhaduri

Order

2/09/2015

1. This instant petition is to quash the criminal proceeding of Criminal
Case No.687/2012 i.e. State of C.G. Vs. Hardeep Singh Tuteja and
another which is pending before CJM, Raigarh.
2. It is contended that an application under Section 320 of the Cr.P.C.
was moved before the court below for compounding of the offence under
section 498-A of IPC, however the said application was dismissed. Hence
this petition.
3. Brief facts of the case are that on 26/01/2006 marriage of the
complainant Chanpreet Kaur applicant herein was solemnized with
Hardeep Singh Tuteja. However, they could not go along with the marriage

and consequently a report was made under Section 498-A read with Section 34 of IPC. Subsequently, it is contended that the complainant and the accused entered into compromise agreement dated 29/04/2011 wherein it was agreed that husband will pay sum of Rs.5 lakhs to the wife and the custody of the son Harji shall not be claimed and it will be with the wife complainant/applicant herein. On the basis of such agreement, a compromise application was filed which was dis-allowed by the court below. Hence, this petition.

4. During the course of proceedings before this court, complainant is present in person. She relies on the agreement which is part of record and submits that amount of Rs.1,25,000/- has been received and rest of the amount Rs.3,75,000/- is kept with Smt. Manindar Kaur wife of Balvir Singh uncle of the complainant/applicant and after the criminal case is quashed she will receive the amount. Non-applicants No.1 and 2 who are present before this court also contended that they have paid the amount and will not claim the same as the amount has been paid according to the compromise affected. It is also submitted that according to the agreement non-applicant Hardeep Singh Tuteja shall not claim any right over the child namely Harji in future. On being asked by the State Counsel, the parties affirms that said compromise have been affected in between them. It is further submitted that now both the parties have mutually separated by the decree of divorce dated 29/04/2011 passed in Civil Suit No.120-A/2010 by the Family Court, Bilaspur.

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

1 (2012) 10 SCC 303

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 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 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. In the instant case, complainant who is applicant herein herself stated that criminal case be quashed as they have dissolved the marriage which too is affirmed by the respondents who are also present in person.

² (2003) 4 SCC 675

Parties submits that they do not want to continue with the criminal case on the basis of compromise and submits that compromise has been affected 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.687/2012 pending before CJM Raigarh.

8. In a result, order dated 20/06/2012 is set aside and the proceedings of Criminal Case No. No.687/2012 pending before CJM Raigarh is quashed. The respondents No.1 and 2 are acquitted of the charges.

9. Accordingly, the petition stands allowed.

Sd/-
(Goutam Bhaduri)
JUDGE