

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 601 of 2015

1. Manoj Kumar Sahu S/o Ramvriksh Aged About 28 years R/o Near District Hospital Manipur, Ambikapur, District (Revenue And District)- Surguja, Chhattisgarh
2. Smt. Kaushalya Devi W/o Ramvriksh Aged About 28 Years R/o Near District Hospital Manipur, Ambikapur, District (Revenue And District)- Surguja, Chhattisgarh
3. Dipak Sahu S/o Ramvriksh Aged About 22 Years R/o Near District Hospital Manipur, Ambikapur, District (Revenue And District)- Surguja, Chhattisgarh
4. Ramvriksh Sahu S/o Dhaneshwar Sahu Aged About 53 Years R/o Near District Hospital Manipur, Ambikapur, District (Revenue And District)- Surguja, Chhattisgarh

---- Petitioners

Versus

State Of Chhattisgarh S/o Through: Police Station Ambikapur, District (Revenue And District)- Surguja, Chhattisgarh

---- Respondent

For Petitioners – Shri S.D. Singh, Advocate.
For Respondent/State – Miss. Farah Minhaj, PL.

Hon'ble Shri Justice Goutam Bhaduri

Order

11/08/2015

1. This petition is against the order dated 20/02/2015 passed by the Chief Judicial Magistrate, Surguja in Criminal Case No. 17/2012 styled as State Vs. Manoj Kumar Sahu 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 and Section 4 of the Dowry Prohibition Act has been rejected. Petitioner No.1 Manoj Kumar Sahu was married to Pooja Gupta on 13/06/2006 at Bagicha. It is contended that they spent about 2-3 years

harmoniously, however subsequently relationship between the parties became strange. Consequently, it led to police report and therefore a case was registered under section 498-A of IPC and section 4 of Dowry Prohibition Act. The said report having been made, on investigation the charge sheet was filed before the Judicial Magistrate at Bagicha under Section 498-A of IPC and section 4 of the Dowry Prohibition Act. The said criminal case while was pending, on 24/06/2014 an application was moved for withdrawal of the criminal case on the ground that matrimonial dispute have been settled between the parties, however said application was dismissed. Therefore, this instant petition whereby powers under Section 482 of Cr.P.C. is sought to be invoked to quash the criminal proceedings.

2. During the proceedings before the court, the accused/petitioners No.1 to 4 and complainant namely Pooja Gupta also present. She 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.

3. 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

1(2012) 10 SCC 303

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”

4. 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.”

5. 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

²(2003) 4 SCC 675

Section 320 of Cr.P.C. in offence of non-compoundable nature.

6. 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.

7. 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 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.17/2012 pending before CJM Sarguja.

8. In a result, order dated 20/02/2015 is set aside and the proceedings of the Criminal Case No.17/2012 pending before CJM Sarguja are quashed. Petitioners are acquitted of their charges.

9. Accordingly, Cr.M.P. stands allowed.

Sd/-
(Goutam Bhaduri)
JUDGE