

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 744 of 2015**

1. Niranjana Behra, S/o. Nandu Ram Behra, Aged About 33 Years, R/o. Nawarapara, Tahsil Gharghoda, P.S. Gharghoda, District - Raigarh (Chhattisgarh).
2. Nandu Ram Behra, S/o. Charo Ram Behra, Aged About 68 Years, R/o. Nawarapara, Tahsil Gharghoda, P.S. Gharghoda, District - Raigarh (Chhattisgarh).

---- Petitioners

Versus

1. State Of Chhattisgarh, Through : Station House Officer, Police Station Chakradhar Nagar, District Raigarh, Chhattisgarh.
2. Lalita Behra, D/o. Hem Sagar Behra, Aged About 24 Years, R/o. Village - Mahapalli, Tahsil & District - Raigarh (Chhattisgarh).

---- Respondents

For Petitioners	:	Mr. Vikas Dubey, Advocate.
For Respondent No.1	:	Ms. M.Asha, Panel Lawyer.
For Respondent No.2	:	Mr. Aman Kesharwani, Advocate.

Hon'ble Shri Justice Goutam Bhaduri**Order On Board****25/08/2015**

1. This petition is against the order dated 11.02.2015 passed by the Court of Judicial Magistrate First Class, Raigarh, in Criminal Case No.807/2012 in between *State v. Niranjana Behra & Others*. By such order, an application moved under Section 320(1) of Cr.P.C. & 320(2) of Cr.P.C. has been dismissed whereby compounding the offence under Section 498A of IPC was sought for. By such order, compounding of offence under Section 294 of IPC was allowed.
2. The brief facts of the case are that the petitioner No.1 Niranjana Behra was married to the complainant Lalita on 26.06.2008, however, the marriage got disturbed. Consequently, an FIR was lodged against the

petitioner and his father on 29.06.2009. Pursuant to the report made, the charge sheet was filed under Section 498A read with Section 294 of IPC and the criminal case was pending before the Judicial Magistrate First Class, Raigarh. During the pendency of such criminal case, the marriage solemnized between the parties was dissolved by a decree of divorce dated 22.01.2013 in Civil Suit No.50-A/2012 by the Family Court, Raigarh. Subsequent thereto, an application was filed under Section 320 of Cr.P.C. in the criminal case for compounding of the offence on the ground that the parties have amicably settled their dispute and the complainant no longer wanted to continue with the criminal proceedings, which was rejected by order dated 11.02.2015. Therefore, the instant petition is filed.

3. During the proceeding before this Court, the accused/ petitioner No.1 and the complainant namely Lalita are present and were identified by their counsels. The complainant Lalita on being interrogated by the State counsel, she submits that they have settled the dispute and she do not want to carry on with the criminal case for her matrimonial peace.
4. 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 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

¹(2012) 10 SCC 303

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”

5. 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.”

²(2003) 4 SCC 675

6. 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.
7. 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.
8. 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.968/2012 pending before the Judicial Magistrate First Class, Raigarh.
9. In the result, the order dated 11.02.2015 is set aside and the proceedings of the Criminal Case No.968/2012 pending before JMFC, Raigarh are quashed. The petitioners are acquitted of the charges.
10. Accordingly, the petition stands allowed.

Sd/-
(Goutam Bhaduri)
JUDGE

Ashok

³(2013) 4 SCC 58