

NAFR

**HIGH COURT OF CHHATTISGARH, BILASPUR**

**CR.M.P. No. 754 of 2015**

1. Sahib Singh Bhatia, S/o. Jaspal Singh Bhatia, Aged About 29 Years.
2. Jaspal Singh Bhatia, S/o. Daljit Singh Bhatia, Aged About 56 Years
3. Paramjeet Kaur Bhatia, W/o. Jaspal Singh Bhatia, Aged About 54 Years
4. Satnam Singh Bhatia, S/o. Daljit Singh Bhatia, Aged About 60
5. Satbir Kaur Bhatia, W/o. Satnam Singh Bhatia, Aged About 58 Years
6. Parvinder Singh Bhatia, S/o Satnam Singh Bhatia, Aged About 34 Years,
7. Maninder Kaur Bhatia, W/o. Parvinder Singh Bhatia, Aged About 35 Years

All R/o M-23, Lalbagh, Housing Board Colony, Rajnandgaon, Police Station; Basantpur, Tahsil and District Rajnandgaon, Chhattisgarh.

---- **Petitioners**

**Versus**

1. State Of Chhattisgarh, Through Station In Charge Police Station Simga, District Baloda Bazar, Chhattisgarh.
2. Smt. Rashmeet Kaur Bhatia, W/o. Saheb Singh Bhatia, Aged About 23 Years, Presently residing at C/o. Pripal Singh Bhatia, Karmchari Colony, Simga, District Balodabazar Chhattisgarh.

---- **Respondents**

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| For Petitioners           | : | Mr. Pradeep Shrivastava, Advocate                                      |
| For Respondent No.1/State | : | Ms. Farah Minhaz, P.L.                                                 |
| For Respondent No.2       | : | Mr. Arvind Shrivastava, Advocate &<br>Mr. Anumeh Shrivastava, Advocate |

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**Hon'ble Shri Justice Goutam Bhaduri**

**Order On Board**

**26/08/2015**

1. This petition is to quash the F.I.R., registered under Crime No.63/2015, under Section 377 & 498(A) read with Section 34 of I.P.C. registered at Police Station Simga, District Balodabazar-Bhatapara, lodged by the respondent No.2, Smt. Rashmeet Kaur Bhatia.

2. Petitioner No.1, Sahib Singh Bhatia was married to respondent No.2, Smt. Rashmeet Kaur Bhatia on 08.02.2014. Subsequently, they could not go along, consequently, the respondent No.2 had lodged an F.I.R. on 17.02.2015 against her husband, Sahib Singh Bhatia, the petitioner No.1 and other family members.
3. Initially F.I.R. was lodged under Section 377 and 498A read with Section 34 of I.P.C. against the petitioners. It is contended that while the matter was being investigated, the parties have entered into a compromise and they do not want to go alongwith such criminal proceedings, since they have decided to live together.
4. The petitioners present in person before this Court, are identified by their counsel Mr. Pradeep Shrivastava. The respondent No.2, Smt. Rashmeet Kaur Bhatia, also present in person before this Court, who is also identified by her counsel. On being interrogated by the State Counsel, the respondent NO.2, Rashmeet Kaur Bhatia submits that compromise has been affected without any pressure or undue influence. It is further submitted that both the parties have decided to settle the issue and would be living together, consequently, the FIR which has been lodged, the respondent No.2 do not want to proceed with it further.
5. The Hon'ble Supreme Court in ***Gian Singh v. State of Punjab & Another<sup>1</sup>*** 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

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1 (2012) 10 SCC 303

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.***<sup>2</sup> 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

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2(2003) 4 SCC 675

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. The F.I.R. is also registered under Section 377 of I.P.C. It is contended that charge sheet has not been filed, consequently neither the proceedings are at the stage of evidence and before the criminal case has commenced, the parties have entered into a compromise. This fact also can not be ignored that both the parties i.e. the accused/petitioners and the complainant, wife have decided to live together.
8. The Hon'ble Supreme Court in case of ***Taslima Nasreen Vs. State of Uttar Pradesh & Others***, reported in ***(2014) 6 SCC 465***, has held as under :-

“29.7 While deciding whether to exercise its power under Section 482 of the Code or not, timings of settlement play a crucial role. Those cases where the settlement is arrived at immediately after the alleged commission of offence and the matter is still under investigation, the High Court may be liberal in accepting the settlement to quash the criminal proceedings/investigation. It is because of the reason that at this stage the investigation is still on and even the charge-sheet has not been filed. Likewise, those cases where the charge is framed but the evidence is yet to start or the evidence is still at infancy stage, the High Court can show benevolence in exercising its powers favourably, but after prima facie assessment of

the circumstances/material mentioned above.....”

9. Perusal of the documents would show that the investigation is still to be made, before that parties have entered into compromise and considering the interse relation between the parties, the husband and the wife, have decided to live together, it would be in the interest of justice to allow the petition.
10. Consequently it is irresistible conclusion that a dispute which arise out of a matrimonial nature where the wrong is basically private or personal in nature and parties have resolved their entire dispute, following such principles, in the opinion of this Court it would be proper in the interest of justice to quash the F.I.R., so that the parties may subsequently live together happily.
11. In a result, the petition is allowed and the F.I.R. registered under Crime No.63/2015, under Section 377 & 498(A) read with Section 34 of I.P.C. registered at Police Station Simga, District Balodabazar-Bhatapara, lodged by the respondent No.2, Smt. Rashmeet Kaur Bhatia, is hereby quashed.

**Sd/-**  
**(Goutam Bhaduri)**  
Judge