

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 1024 of 2015

1. Rupesh Sharma, S/o Shripal Sharma, Aged About 27 Years, R/o Naharpara Kanpa, Naharpaa Pandri, Near Hanuman Mandir, Raipur, Tahsil & District Raipur Chhattisgarh.
2. Janak Dubey S/o Late Babulal Dubey Aged About 40 Years R/o Naharpara Kanpa, Naharpaa Pandri, Near Hanuman Mandir, Raipur, Tahsil & District Raipur Chhattisgarh
3. Pawan @ Raja Dubey S/o Janak Dubey, Aged About 21 Years, R/o Naharpara Kanpa, Naharpaa Pandri, Near Hanuman Mandir, Raipur, Tahsil & District Raipur Chhattisgarh
4. Devantin Dubey W/o Janak Dubey, Aged About 37 Years, R/o Naharpara Kanpa, Naharpaa Pandri, Near Hanuman Mandir, Raipur, Tahsil & District Raipur Chhattisgarh
5. Savitri Dubey, W/o Babulal Dubey, Aged About 80 Years, R/o Naharpara Kanpa, Naharpaa Pandri, Near Hanuman Mandir, Raipur, Tahsil & District Raipur Chhattisgarh.

--- **Petitioners/ Applicants**

Versus

6. State of Chhattisgarh Through : The Police Of Police Station Pandari, Raipur, Tahsil & District Raipur Chhattisgarh.
7. Jaya Sharma D/O Santosh Sharma Aged About 24 Years R/O Puraina, Ward No. 45, Telibandha Raipur, Tahsil & District Raipur Chhattisgarh

--- **Respondents/Non-Applicants**

For the petitioners	:	Mr. S. C. Verma, Advocate
For the State/R-1	:	Mr. Anil S. Pandey, Govt. Adv.
For respondent No.2	:	Mr. Vikram Dixit, Advocate

Hon'ble Shri Justice Goutam Bhaduri

Judgment /Order on Board

26.11.2015

1. The instant petition is against the order dated 30.09.2015 passed in Criminal Case No.793 of 2013 whereby the application filed by the complainant to compound the offence has been rejected by the JMFC, Raipur holding that the offence u/s 498-A is not compoundable nature.

2. As per the petition, respondent No.2 Jaya Sharma was married to Petitioner No.1 Rupesh Sharma on 08.06.2012. Subsequently after the marriage, the married life cannot go on smoothly consequently a report was made by the complainant wherein a case was registered u/s 498-A read with Section 34 of IPC.
3. During the pendency of the charge sheet, a compromise petition was filed before the Court below wherein the complainant stated that she is living separately and therefore, she do not want to continue with criminal case and she wants to withdraw the complaint without any fear or pressure. Consequently the criminal case may be dismissed. However, the trial Court dismissed the application for compromise, therefore, hence this petition before this Court.
4. It is submitted by the parties that the petitioner and Respondent No.2 have resolved their disputes and as such arrived at an amicable settlement in the matter and consequently an application was filed under Section 320(2) of Cr.P.C. before the JMFC to compound the offences. However, the trial Court by order dated 30.09.2015 dismissed the application seeking compromise.
5. Counsel for respondent No.2/complainant would submit that she do not want to continue with the proceeding and counsel for the applicant also pleaded the same fact and the complainant/respondent No.2 who is present in the Court on being inquired by the learned State Counsel, has stated that she do not want to continue with criminal case and she has amicably settled the dispute and therefore, she wants to withdraw the complaint against Petitioner No.1 without fear and pressure. She submits that affidavits have also been

filed alongwith the petition which are on record. Similarly an application u/s 320(2) Cr.P.C., has also been filed on behalf of the Petitioners.

6. The Supreme Court in case of *Gian Singh Vs. State of Punjab and (2012)10 SCC 303 : 2012 Cri.L.J4934* laid down guidelines for quashing of the non-compoundable offences in the event of compromise being entered into between the parties. Para 49, 50 53, 54 are relevant here and quoted below:

“49. Section 482 of the Code, as its very language suggests, saves the inherent power of the High Court which it has by virtue of it being a superior court to prevent abuse of the process of any court or otherwise to secure the ends of justice. It begins with the words, ‘nothing in this Code’ which means that the provision is an overriding provision. These words leave no manner of doubt that none of the provisions of the Code limits or restricts the inherent power. The guideline for exercise of such power is provided in Section 482 itself i.e., to prevent abuse of the process of any court or otherwise to secure the ends of justice. As has been repeatedly stated that Section 482 confers no new powers on High Court; it merely safeguards existing inherent powers possessed by High Court necessary to prevent abuse of the process of any Court or to secure the ends of justice. It is equally well settled that the power is not to be resorted to if there is specific provision in the Code for the redress of the grievance of an aggrieved party. It should be exercised very sparingly and it should not be exercised as against the express bar of law engrafted in any other provision of the Code.

50. In different situations, the inherent power may be exercised in different ways to achieve its ultimate objective. Formation of opinion by the High Court before it exercises inherent power under Section 482 on either of the twin objectives, (i) to prevent abuse of the process of any court or (ii) to secure the ends of justice, is a sine qua non.

53. Quashing of offence or criminal proceedings on the ground

of settlement between an offender and victim is not the same thing as compounding of offence. They are different and not interchangeable. Strictly speaking, the power of compounding of offences given to a court under Section 320 is materially different from the quashing of criminal proceedings by the High Court in exercise of its inherent jurisdiction. In compounding of offences, power of a criminal court is circumscribed by the provisions contained in Section 320 and the court is guided solely and squarely thereby while, on the other hand, the formation of opinion by the High Court for quashing a criminal offence or criminal proceeding or criminal complaint is guided by the material on record as to whether the ends of justice would justify such exercise of power although the ultimate consequence may be acquittal or dismissal of indictment.

54. Where High Court quashes a criminal proceeding having regard to the fact that dispute between the offender and victim has been settled although offences are not compoundable, it does so as in its opinion, continuation of criminal proceedings will be an exercise in futility and justice in the case demands that the dispute between the parties is put to an end and peace is restored; securing the ends of justice being the ultimate guiding factor. No doubt, crimes are acts which have harmful effect on the public and consist in wrong doing that seriously endangers and threatens well-being of society and it is not safe to leave the crime- doer only because he and the victim have settled the dispute amicably or that the victim has been paid compensation, yet certain crimes have been made compoundable in law, with or without permission of the Court. In respect of serious offences like murder, rape, dacoity, etc; or other offences of mental depravity under IPC or offences of moral turpitude under special statutes, like Prevention of Corruption Act or the offences committed by public servants while working in that capacity, the settlement between offender and victim can have no legal sanction at all. However, certain offences which overwhelmingly and predominantly bear civil flavour having arisen out of civil, mercantile, commercial, financial, partnership or such like transactions or the offences arising out of matrimony, particularly relating to dowry, etc. or the family dispute, where the wrong is basically to victim and the offender and victim have settled all disputes between them amicably, irrespective of the fact that such offences have not been made compoundable, the High Court may within the

framework of its inherent power, quash the criminal proceeding or criminal complaint or F.I.R if it is satisfied that on the face of such settlement, there is hardly any likelihood of offender being convicted and by not quashing the criminal proceedings, justice shall be casualty and ends of justice shall be defeated. The above list is illustrative and not exhaustive. Each case will depend on its own facts and no hard and fast category can be prescribed.”

7. Reading of the above quoted paragraphs would show that Hon'ble Supreme Court has held that where certain offences which overwhelmingly and predominantly bear civil flavour having arisen out of civil, mercantile, commercial, financial, partnership or such like transactions where the wrong is basically to the victim and the offender and the victim have settled all the disputes *inter-se* amicably, then irrespective of the fact that such offences have not been made compoundable, the High Court may within the framework of its inherent powers, quash the criminal proceeding or criminal complaint or F.I.R., if it is satisfied that on the face of such settlement, there is hardly any likelihood of offender being convicted and by not quashing the criminal proceedings, justice shall be casualty and ends of justice shall be defeated.
8. By application of the aforesaid principles to the instant case, since the complainant/respondent No.2 has stated on oath by filing affidavit as also in person before this Court that she entered into compromise and the complainant and petitioner have amicably settled the dispute and considering the averments made in application for compromise which is supported by the affidavit this Court is satisfied that there is hardly any likelihood of the offenders being convicted in the teeth of submission made by the complainant.

9. Therefore, considering the nature of the dispute and since the parties have entered into compromise and the complainant/respondent No.2 does not want to continue the criminal proceedings against the petitioner any longer, I deem it expedient to exercise the inherent power conferred under section 482 Cr.P.C., in the instant case. Accordingly, the proceedings of Criminal Case No. 793/2013 (*State Vs. Rupesh Sharma and others*) registered against the petitioners for the offences punishable under Sections 498-A/34of IPC pending in the Court of learned JMFC, Raipur arising out of Crime No.367/2012 registered at P.S., Pandari, Distt. Raipur, are quashed.

10. Consequently, this petition is allowed. The applicants are acquitted of the charge.

Sd/-

**GOUTAM BHADURI
JUDGE**