

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CR.M.P. No. 724 of 2014

Abdul Salim, son of Shri Abdul Karim, aged about 39 years, R/o in front of CMD College, Link Road, P.S. Tarbahar, Distt. Bilaspur Civil & Revenue District Bilaspur (C.G) ----- **Petitioner**

Versus

1. State Of Chhattisgarh, Through Police Station Tarbahar, Distt. Bilaspur, Chhattisgarh.
2. Smt. Sarina Khan, daughter of Safi Miya, aged about 32 years, "Advocate", High Court of Chhattisgarh at Bilaspur, R/o Chakarbhata Camp, P.S. Chakarbhata, Bilaspur, Chhattisgarh

----- **Respondents**

For Petitioner	:	Mr. Dheerendra Pandey, Advocate
For Respondent/State	:	Mr. S.C. Khakharia, Dy.A.G.,
For respondent No.2	:	Ms. Sarina Khan, Advocate, appears in person.

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

15/09/2015

1. The instant petition is to quash the proceedings of Criminal Case No. 38/2013 pending before the Court of Judicial Magistrate First Class Bilaspur which arose out of Crime No.404/2012 dated 02.12.2012 registered at Police Station Tarbahar for the offence punishable under Sections 498-A & 506 IPC as also the final report dated 31.12.2012.
2. During the pendency of the instant petition, the applicant and respondent No.2 have filed an application u/s 320 of Cr.P.C., seeking permission of the Court to compromise the offence.

3. Initially, a report was made by respondent No.2 Smt. Sarina Khan against the applicant Abdul Salim alleging cruelty and therefore, a written report was lodged on 02.12.2012. Pursuant thereto, the statement of complainant was recorded and the charge sheet was filed before the JMFC.
4. Briefly stated facts of the case are that respondent No.2 was married to applicant on 07.05.2012. Thereafter, they started their marital life, however, it could not go for long and according to respondent wife, she was subjected to cruelty for demand of dowry and intimidation which resulted into filing report and eventually charge sheet was filed u/s 498-A & 506 IPC. The instant petition is filed to quash the criminal proceedings. During the pendency of the petition, an application under Section 320 Cr.P.C. , was filed on the ground that the applicant and respondent No.2 *inter-se* have entered into a compromise and they do not want to go along-with criminal case further. Respondent No.2 who is present before this Court also asserts the fact that the compromise has been entered into between the parties and she do not want to continue the criminal proceedings against the petitioner as they have separated now.
5. Before the Court, this fact was also fortified on an enquiry made by the State counsel that respondent No.2 the wife does not want to continue the criminal proceedings against the petitioner pending before the Judicial Magistrate First Class, Bilaspur since compromise has been entered into between the parties.
6. The Hon'ble Supreme Court in ***Gian Singh v. State of Punjab & Another¹*** has laid down the following principles :

1. (2012) 10 SCC 303

“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 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”

7. 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

2. (2003) 4 SCC 675

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.”

8. The principles laid down by the Supreme Court clearly lead to an irresistible conclusion that a dispute which arises out of a matrimonial nature where the wrong is basically private or personal in nature and parties have resolved their entire dispute, the High Court may quash the criminal proceedings. If the High Court finds it to be unfair and contrary to the interest of justice to continue with the criminal proceeding despite settlement and compromise between the victim and the wrongdoer and make put to an end to the criminal case.
9. Consequently, in view of the principles laid down by the Hon'ble Supreme Court and the fact that complainant, Smt. Sarina Khan who is present in the Court itself submit that she do not want to continue with the criminal case and has settled the dispute without any pressure or fear, it would be in the interest of justice to allow the petition and to quash the proceeding of criminal case pending before the Judicial Magistrate First Class, Bilaspur.
10. Accordingly, the petition is allowed and the proceedings of Criminal Case No.38 of 2013 pending before the Judicial Magistrate First Class, Bilaspur under Section 498-A read with Section 506 IPC which arose

out of the Crime No.404 of 2012 dated 02.12.2012 as also the final report dated 31.12.2012 are quashed. The petitioner is acquitted of the charges.

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

Rao