

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 859 of 2015

Rupesh Kumar Ganwre S/o Meghnath Ganwre Aged About 27
Years R/o Kanchan Bagh, Plot No. 106, Raipur Naka,
Rajnandgaon, Civil And Rev. Distt. Rajnandgaon Chhattisgarh.

---- Petitioner

Versus

1. State Of Chhattisgarh Through Station House Officer, Police
Station Mahila Thana, Raipur, District Raipur Chhattisgarh.
2. Smt. Santoshi Ganwre W/o Rupesh Ganwre Aged About 37
Years R/o Vinobha Bhave Nagar, Behind Dandhekar Niwas, Civil
Line, Raipur, Distt. Raipur Chhattisgarh.

---- Respondents

For Petitioner – Shri Shivendu Pandya, Advocate.
For Respondent No.1/ State – Shri Ajit Singh, PL.
For Respondent No.2 – Shri Dharmesh Shrivastava, Advocate.

Hon'ble Shri Justice Goutam Bhaduri

Order

14/10/2015

1. Instant petition is against the order dated 12/08/2013 passed by the
Additional Chief Judicial Magistrate, Raipur in Criminal Case No.985/2013.
By such order, an application preferred under Section 320 of Cr.P.C. to
compound the offence under Section 498-A of IPC was dismissed.
2. Brief facts of this case are that petitioner Rupesh Kumar Ganwre
was married to non-applicant No.2 Santoshi Ganwre on 5/10/2007. There
after, the marriage could not go along and as a result of dispute, report
was made and case was registered under Section 498-A of IPC. After
such report was made, charge sheet was filed and Criminal Case
No.985/2013 was registered before Additional Chief Judicial Magistrate,
Raipur.

3. During the course of trial, it is contended that complainant and the accused have entered into compromise and the compromise statement was also recorded. Learned court below dismissed the application for compromise as section 498-A of IPC was held to be not compoundable.

4. During the course of proceeding before this court, the accused/husband and complainant/wife are present in person. The complainant/wife contended that she has arrived into compromise with the accused. On being enquired by the State counsel same is also fortified that she do not want to continue with the criminal case as they have settled the dispute and do not want to continue with the rigor of criminal case.

5. 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 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

1 (2012) 10 SCC 303

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.***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.”

7. 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.

8. 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.

² (2003) 4 SCC 675

³ (2013) 4 SCC 58

9. In the instant case, complainant/wife is present in person and submits that matter has already been settled which is evident from the application and statement made before the court below for compromise and it is stated that she is living separately and do not want to continue with the criminal case on the basis of compromise arrived at. Therefore, taking into facts of this case, no purpose would be served to continue with the criminal case.

10. In the result, proceedings of Criminal Case No.985/2013 pending before Additional Chief Judicial Magistrate, Raipur is quashed. Petitioner is acquitted of the charges.

11. Accordingly, the petition stands allowed.

Sd/-
(Goutam Bhaduri)
JUDGE

