

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CR.M.P. No. 915 of 2015

1. Rajesh Jaiswal, S/O. Late Dev Prasad Jaiswal, Aged About 39 Years, R/O LIG-1405, Sector-8, Jhanda Chowk, Housing Board Colony, Saddu, Raipur Chhattisgarh
2. Raj Kumar Jaiswal, S/O. Late Dev Prasad Jaiswal, Aged About 42 Years,
3. Koushilya Bai, W/O. Dev Prasad Jaiswal, Aged About 60 Years,
4. Gomati Jaiswal, W/O. Rajkumar Jaiswal, Aged About 35 Years,

No.2 to 4 all are R/O Paras Nagar, Kasdol, P.S. Kasdol, District Balodabazar - Bhatapara Chhattisgarh

---- **Petitioners**

Versus

1. State Of Chhattisgarh Through : The Station House Officer, P.S. Mahila Thana, Raipur Chhattisgarh
2. Smt. Rambha Jaiswal, W/O Rajesh Jaiswal, Aged About 38 Years R/O Lig - 1405, Sector-8, Jhanda Chowk, Housing Board Colony, Saddu, Raipur Chhattisgarh

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For Petitioners	: Mr. Raghavendra Pradhan, Advocate
For Respondent No.1/State	: Mr. Anil S. Pandey, Govt. Advocate
For Respondent No.2	: Mr. Parag Kotecha, Advocate.

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

26/10/2015

1. This petition is against the order dated 08/09/2015, passed by the Judicial Magistrate First Class, Raipur in Criminal Case No. 459/2013 styled as State Vs. Rajesh Kumar Jaiswal & Others. By such order, an application filed by the parties i.e. the complainant and the accused persons under Section 320 of Cr.P.C. has been rejected.

2. The brief facts of the case are that petitioner No.1, Rajesh Jaiswal was married to respondent No.2, Smt. Rambha Jaiswal on 26.05.2003 and out of their wedlock they were blessed with two children. After period of 10 years, they could not go along and as a result of dispute, respondent No.2, Smt. Rambha Jaiswal lodged a report against the petitioners, thereby a case was registered under Section 498A/34 & 506-B of I.P.C. Before the Court below, an application under Section 320-B of Cr.P.C. for compromise was filed on the ground that they were living together and settlement has been arrived at. Therefore, the case which is pending against the petitioners be dropped. The said application having been dismissed, hence this petition.
3. Before this Court the parties are presents. Respondent No.2, the complainant, Smt. Rambha Jaiswal, who is the wife on being asked by the State counsel as to whether she has arrived into compromise, she affirmed the fact that she is living together with the petitioner No.1, husband since 20.05.2015. It is submitted by the parties that they have amicably settled the dispute and the complainant do not want to continue with the criminal case and has compromised the case outside the Court without any fear, undue influence or any pressure. Consequently, the criminal case pending before the Court below be quashed.
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

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”

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

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.”

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, the wife/complainant is present in person before this Court and submits that the matter has already been settled and she is living together and they do not want to continue with the criminal case. Copy of compromise application is also placed on record. On enquiry being made, complainant/wife submits that she is living together with the petitioner No.1 since May, 2015 and submits that the compromise has been done without any fear or favour. Therefore, considering the facts of this case, it would be in the interest of justice to quash the proceeding of Criminal Case No.459/2013, pending

3 (2013) 4 SCC 58

before the Judicial Magistrate First Class Raipur.

9. In the result, proceedings of Criminal Case No.459/2013 pending before Judicial Magistrate First Class, Raipur is quashed. Petitioners are acquitted of the charges.
10. Accordingly, the petition stands allowed.

Sd/-
(Goutam Bhaduri)
Judge

Balram