

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CR. M. P. No. 430 of 2015

1. Hem Kumar Patel, S/o Late Babulal Patel, Aged About 26 Years, R/o Tappa Sewaiya, P.S. Pithoura, Civil & Revenue District Mahasamund Chhattisgarh
2. Sulochana Patel, W/o Late Babulal Patel, Aged About 50 Years, R/o Tappa Sewaiya, P.S. Pithoura, Civil & Revenue District Mahasamund Chhattisgarh
3. Sarita Patel, W/o Damodar Patel, Aged About 28 Years, R/o Tappa Sewaiya, P.S. Pithoura, Civil & Revenue District Mahasamund Chhattisgarh
4. Vijay Patel, S/o Late Babulal Patel, Aged About 22 Years, R/o Tappa Sewaiya, P.S. Pithoura, Civil & Revenue District Mahasamund Chhattisgarh

---- Petitioners

Versus

1. State of Chhattisgarh Through The Station House Officer, Police Station Urga, District Korba, Chhattisgarh
2. Smt. Indu Patel, W/o Hem Kumar Patel, R/o Village- Barpali, Police Station - Urga, District Korba, Chhattisgarh

---- Respondents

For Petitioners	:	Mr. C.K. Patel, Advocate
For Respondent No.1/State	:	Mr. Satish Gupta, Govt. Advocate
For Respondent No.2	:	Mr. K.K. Tondey, Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

06.01.2016

1. This petition is to quash the proceedings of Criminal Case registered in Crime No. 3/2015 under section 498- A of IPC before Police Station Urga, District Korba (C.G.)

2. The facts involved in this case is that, a report was lodged by Respondent No. 2 Smt. Indu Patel before Police Station Uрга District Korba against the petitioners wherein it was registered in Crime No. 3/2015 under section 498-A of IPC. The marriage of Petitioner No. 1, Hem Kumar Patel was solemnized to Respondent No.2, Smt. Indu Patel on 08.02.2014. Thereafter, Respondent No. 2 continued in her matrimonial house, however, she could not go along with her husband ultimately, a report was made under section 498-A of IPC.
3. That, after the report was made the Petitioners and the Respondent No. 2 have entered into a compromise and it is stated that they amicably settled the matter and decided to reside separately. Consequently, a compromise petition was filed. It is further submits that the Petitioners and the Respondent No. 2 have amicably resolved their disputes and as such the instant petition was filed to quash the FIR/ Crime No. 3/2015 which was made on 02.01.2015.
4. During the proceedings before the Court, the accused/ petitioner No. 1, Hem Kumar Patel, Smt. Sulochana Patel and Vijay Patel are present before this Court and the Respondent No. 2 Smt. Indu Patel the complainant is also present before this Court. On being interrogated by the State Counsel, it has been stated that she do not want to continue with criminal case and she has amicably settled the dispute and therefore, she want to withdraw the complaint against the Petitioners without fear and pressure. She submits that affidavit has also been filed which is placed on record.

5. 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.”

6. 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.

7. 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.

8. 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 FIR registered under crime No. 3/2015 at Police Station – Uрга, District Korba registered against the petitioners for the offences punishable under Sections 498-A of IPC be quashed.

9. Consequently, this petition is allowed. The petitioners are acquitted of the charge.

Sd/-

(Goutam Bhaduri)
Judge