

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRIMINAL MISC. PETITION NO. 819 OF 2016

1. Yadunandan Das Vaishnav, S/o Narayan Das Vaishnav, aged about 60 years, occupation Service.
 2. Smt. Jema Bai W/o Yadunandan Das Vaishnav, aged about 55 years, occupation Housewife.
 3. Dilip Kumar Vaishnav S/o Yadunandan Das Vaishnav, aged about 37 years, occupation Agriculture.
- All are R/o Village Tamta, Thana Pathalgaon, District Jashpur (C.G.)

... Applicants

Versus

1. State of Chhattisgarh, through the Station House Officer, Pathalgaon, Tahsil Pathalgaon, District Jashpur (C.G.)
 2. Anju Vaishnav D/o Rohit Kumar Vaishnav, aged about 30 years
 3. Soshant @ Sonu S/o Dilip Vaishnav, aged about 6 years (minor)
- Non-applicant No.2 & 3 are R/o Village Pondi Bahar Ward No.21, Thana & District Korba (C.G.)

... Non-applicants

For Applicants	:	Mr. N.K. Malviya, Advocate.
For Non-applicant/State	:	Mr. Gary Mokhopadhyay, Govt. Advocate.
For Non-applicant/Complainant:		Mr. Akhilesh Mishra, Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

26/08/2016

1. The present petition under Section 482 of CrPC has been filed by the Applicants seeking permission of the Court for compounding the offence under Section 498-A of IPC as well as under Section 4 of the Dowry Prohibition Act, 1961 registered against the Applicants/Accused at the behest of Non-applicant No.2/Complainant.
2. According to the Counsel for the Applicants, originally the Non-applicant No.2 has filed a complaint against the present Applicants for which offence under Sections 498-A of IPC and 4 of the Dowry Prohibition Act, 1961 was registered and the matter was put to trial before the Court of

Judicial Magistrate First Class, Pathalgaon, Jashpur vide Criminal Case No. 28 of 2012.

3. The learned Trial Court, after conclusion of the trial, vide its judgment dated 24.9.2013 convicted the Applicants for the offence under Section 498-A of IPC as well as under Section 4 of the Dowry Prohibition Act and sentenced them to undergo simple imprisonment for one year and to pay fine of Rs.500/- with default stipulation under Section 498-A of IPC and to undergo six months imprisonment and to pay fine of Rs.500/- with default stipulation under Section 4 of the Dowry Prohibition Act.

4. The said judgment of conviction dated 24.9.2013 was challenged by the Applicants before the Additional Sessions Judge, Kunkuri, Jashpur in an appeal which was registered as Criminal Appeal No. 56 of 2013.

5. Pending the dispute between the parties before the Sessions Court, they have arrived at a compromise and the Applicant No.2/Complainant did not intend to prosecute the Applicants/Accused any further and had moved an application under Section 320(2) CrPC for permission to compound the offence. But, the Sessions Court vide its order dated 24.6.2016 had rejected the said application, leading to filing of the present petition under Section 482 CrPC.

6. All the Applicants/Accused are present today before this Court including Non-applicant No.2/Complainant along with their respective Counsels and they have also filed separate affidavits in respect of the compromise arrived at between the parties stating that they have amicably settled the dispute between them and that they do not intend to further prosecute the issue which is pending before the Court below and pray for quashing the same. By virtue of the compromise arrived at between the parties, they have also started residing together after the compromise.

7. In view of the categorical statements made by the Complainant/Non-applicant No.2 as well as the Applicants/Accused, this Court is of the opinion that once when the complainant and the accused have settled their matter and buried the dispute and differences, it would be an important consideration for the High Court while exercising the powers under Section 482 CrPC to compound the offence. The opinion of this Court stands fortified from the judgment of the Supreme Court in the case of **Gian Singh v. State of Punjab & Another** [2012 (10) SCC 303] and also in the case of **Narinder Singh & Others v. State of Punjab & Another** [2014 (6) SCC 466].

8. Another aspect which has to be borne in mind is that since the parties to the dispute having entered into a settlement and compromised the matter, there is a minimal chance of the complainant coming forward in support of the prosecution case and the chances of conviction therefore appear to be very remote and it would not be justified to drag these proceedings unnecessarily knowing fully well the final outcome.

9. In view of the statement made by the Complainant/Non-applicant No.2 and the Applicants/Accused and keeping in view the law laid down by the Supreme Court in the case of **B. S. Joshi & others v. State of Haryana & Another** [2003 (4) SCC 675] and in the case of **Gian Singh** (supra) and **Narinder Singh** (supra), this Court is of the opinion that it is a fit case where the parties can be permitted to compound the offence.

10. Accordingly, the present petition under Section 482 CrPC is allowed. The impugned order dated 24.6.2016 is set aside and the consequential proceedings of Criminal Appeal No. 56 of 2013 pending before the Additional Sessions Judge, Kunkuri, Jashpur, stand quashed and the Applicants, who are the accused persons in that appeal, stand discharged

from the offence punishable under Section 498-A of IPC as well as under Section 4 of the Dowry Prohibition Act, 1961.

Certified Copy today.

/sharad/

Sd/-
(P. Sam Koshy)
Judge