

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRIMINAL MISC. PETITION NO. 442 OF 2016

1. Arun Kumar Rai S/o Late Atul Chanda Rai, aged about 41 years
 2. Smt. Meera Rai W/o Late Atul Rai, aged about 57 years
 3. Smt. Anjana Sharma W/o Late Shashi Kumar Sharma, aged about 37 years
 4. Dipika @ Dipiya D/o Late Atul Rai, aged about 25 years
- All above Applicants are resident of Village Lalpur, behind Muskan Residency, near the Awadhiya Tower, District Raipur (C.G.)

... Applicants

Versus

1. State of Chhattisgarh, through its District Magistrate Officer, District Raipur (C.G.)
2. The Station House Officer, Police Station Tikrapara, District Raipur (C.G.)
3. Smt. Mansi Rai W/o Arun Rai, aged about 32 years, R/o care of Shri Dulal Das, P.V.-26, Village Mayapur, Post & Police Station- Pakhanjur, District Kanker (C.G.)

... Non-applicants

For Applicants	:	Mr. Ravi Maheshwari and Mr. B.L. Sahu, Advocates.
For Non-applicants No.1 and 2	:	Mr. U.K.S. Chandel, Panel Lawyer.
For Non-applicant No.3	:	Mr. Tarun Dansena, Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

08/08/2016

1. The present petition under Section 482 CrPC has been preferred by the Applicants seeking for quashment of the criminal proceedings in Criminal Case No. 726 of 2010 pending before the Judicial Magistrate First Class, Raipur.
2. According to the Counsel for the Applicants, the Non-applicant No.3/Complainant, Smt. Mansi Rai, who is the wife of Applicant No.1, Arun Kumar Rai, had initially lodged a complaint under Section 498-A read with Section 34 of IPC against the Applicants No. 1, 2, 3 and 4 herein at Police Station, Tikrapara, Raipur and subsequently the matter was put to trial

before the Judicial Magistrate First Class, Raipur in Criminal Case No.726 of 2010.

3. Pending the dispute between the parties, they have arrived at a compromise and the Non-applicant No.3/Complainant did not intend to prosecute the Applicants No. 1, 2, 3 and 4 any further and they had moved an application under Section 320(2) CrPC for permission to compound the offence. But, the Court below vide order dated 14.3.2016 had rejected the said application, leading to filing of the present petition under Section 482 CrPC.

4. On 18.4.2016, a Coordinate Bench of this Court had directed the Registrar (Judicial) of this High Court to record the statements of Applicant No.1, Arun Kumar Rai and Non-applicant No.3, Smt. Mansi Rai in respect of the compromise that they have entered into.

5. In compliance of the said order, the statement of Non-applicant No.3, Smt. Mansi Rai, D/o Dulal Das and W/o Arun Kumar Rai was recorded on 18.4.2016 wherein she has categorically stated to have resolved the dispute with her husband and not to contest the prosecution case which has been initiated on her complaint any further. She has further stated that in the light of the compromise entered into between the parties both the husband and wife have decided to live separately.

6. Likewise, the statement of Applicant No.1, Arun Kumar Rai, was also recorded on 18.4.2016 wherein he has also agreed of the fact that they have entered into a compromise and as per the compromise they would be living separately and that both the parties in the light of the compromise do not want to agitate the criminal case any further.

7. Both the Applicant No.1, Arun Kumar Rai and the Non-applicant No.3, Smt. Mansi Rai are also present before this Court along with their respective Counsels. On a query being put to Non-applicant No.3, Smt.

Mansi Rai by this Court, she has categorically stated that the dispute has been resolved amicably between the parties and she does not want to prosecute them any further and the matter may be closed once and for all.

8. Learned Counsel for Non-applicant No.3 submits that he has specific instructions that Non-applicant No.3, Smt. Mansi Rai, has compromised the dispute between the parties and that she does not want to prosecute the Applicants any further.

9. Learned Counsel for the State also submits that since the Non-applicant No.3, Smt. Mansi Rai, herself does not want to prosecute the Applicants, the State also does not have any objection if the matter is closed or permitted to be compounded.

10. In view of the categorical statements made by the Complainant/Non-Applicant No.3, Smt. Mansi Rai as well as Accused/Applicant No.1, Arun Kumar Rai, 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.

11. 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].

12. 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.

13. In view of the statements made by the Complainant/Non-applicant No.3 and the Accused/Applicant No.1 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.

14. Accordingly, the petition under Section 482 CrPC is allowed. The consequential proceedings of Criminal Case No.726 of 2010 pending before the Judicial Magistrate First Class, Raipur stand quashed and the Applicants No.1, 2, 3 and 4, namely, Arun Kumar Rai, Smt. Meera Rai, Smt. Anjana Sharma and Dipika @ Dipiya, who are the accused persons in that case, stand discharged from the offence punishable under Section 498-A read with Section 34 of IPC.

Sd/-
(P. Sam Koshy)
Judge