

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRIMINAL MISC. PETITION NO. 1190 OF 2015

1. Jitendra Hirwani S/o Ramkumar Hirwani Aged About 24 Years
2. Manju Sahu W/o Gopal Sahu Aged About 26 Years R/o Pt. Ravishankar University Colony, Raipur Chhattisgarh.
3. Hitendra Kumar S/o Ramkumar Hirwani Aged About 22 Years
4. Ramkumar Hirwani S/o Thakur Ram Hirwani Aged About 57 Years
5. Vimla Hirwani W/o Ramkumar Hirwani Aged About 53 Years

Petitioner No.1 and 3 to 5 are R/o Village Barauda, P.S. Dharsiva, Civil And Rev. Distt. Raipur, Chhattisgarh.

---- Applicants

Versus

1. State of Chhattisgarh Through District Magistrate, Raipur, Civil And Rev. Distt. Raipur Chhattisgarh.
2. Smt. Yogeshwari Sahu W/o Shri Jitendra Kumar Hirwani Aged About 30 Years Presently R/o Village Rakhi, P.S. & Tahsil Kurud, Civil And Rev. Distt. Dhamtari Chhattisgarh.

... Non-applicants

For Applicants	:	Shri Amiykant Tiwari and Shri Nagendra Sharma, Advocates.
For Non-applicant/State	:	Shri V.A. Gowardhan, Panel Lawyer.
For respondent No.2	:	Shri BK Sahu, Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

09/08/2016

1. The present petition under Section 482 CrPC has been preferred by the Applicants, who are the accused, seeking for quashment of the criminal proceedings in Criminal Appeal No.33/2013 pending before 9th Additional Sessions Judge, Raipur.
2. According to the Counsel for the Applicants, the respondent No.2 is the wife of applicant No.1 and the applicants No.2 to 5 are the relatives of applicant No.1. The respondent No.2 had made a complaint for the offence under Section 498-A, 323,294 and 506 IPC before the Police Station, Dharsiwa, Distt. Raipur, and subsequently the matter was put to trial before the Additional Chief Judicial Magistrate, Raipur, in Criminal Case No.1194/2008 and the petitioners were tried

for offence under Sections 498-A, 323 and 294/34 in which they were convicted for the offence under Sections 498-A and 323/34 IPC.

3. Pending the dispute between the parties, they have arrived at a compromise and the Respondent No.2/complainant does not intend to prosecute the Applicants any further and had moved an application under Section 320(2) CrPC for permission to compound the offence, but the Court below only compounded the offence under Section 323/34 IPC however refused to compound the offence under Section 498-A IPC as the same is not within its jurisdiction, leading to filing of the present petition under Section 482 CrPC.

4. The accused-Applicants and the complainant-respondent No.2 are present today before this Court along with respective counsel. The respondent-complainant has made a categorical statement that pending the petition, the matter was sent for mediation and in the mediation proceeding on 13.08.2015 the parties have amicably settled the dispute and she does not intend to further prosecute the issue which is pending before the Court below and prays for withdrawal of criminal cases filed against the accused applicants. The accused applicants have also stated the same facts.

5. State counsel also submits that in the light of settlement arrived at between the parties, the State has no objection if the matter is permitted to be compounded.

6. In view of the categorical statement made by the complainant/Respondent No.2 as well as the accused persons/applicants, 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].

7. Another aspect which has to be borne in mind is that 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.

8. In view of the statement made by the complainant/Respondent No.2 and the accused persons/applicants 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], 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.

9. Accordingly, the present petition under Section 482 CrPC is allowed. The consequential proceedings of Criminal Appeal No.33/2013 pending before the 9th Additional Sessions Judge, Raipur, stands quashed. Judgment of conviction dated 03.01.2013 passed by the Additional Chief Judicial Magistrate, Raipur in Criminal Case No.1194 of 2008 also stands quashed and the applicants, who are the accused persons in that case, stand discharged from the offence punishable under Section 498-A IPC.

Sd/-
(P. Sam Koshy)
Judge