

AFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Misc. Petition No.1203 of 2015**

1. Lukesh Sonkar S/o Dhaniram Aged About 26 Years R/o Village Mundra, Post Tekari, Tahsil Abhanpur, Distt. Raipur, Chhattisgarh. ...**[accused]**
2. Dhaniram Sonkar S/o Ramdeen Aged About 53 Years R/o Village Mundra, Post Tekari, Tahsil Abhanpur, Distt. Raipur, Chhattisgarh. ...**[accused]**
3. Meera Bai W/o Dhaniram Aged About 50 Years R/o Village Mundra, Post Tekari, Tahsil Abhanpur, Distt. Raipur, Chhattisgarh. ...**[accused]**
4. Smt. Durga Sonkar W/o Lukesh Sonkar Aged About 22 Years R/o Village Gowardhan Para, Rajim Tahsil Rajim, Distt. Gariyaband, Chhattisgarh. **[Complainant]**
5. Ku. Lavina Sonkar D/o Lukesh Sonkar R/o Village Gowardhan Para, Rajim Tahsil Rajim, Distt. Gariyaband, Chhattisgarh. **[Complainant]**

---- **Petitioners****Versus**

- State Of Chhattisgarh Through District Magistrate, Raipur, Chhattisgarh.

---- **Respondent**

For petitioners 1 to 3	: Smt. Ranjana Jaiswal, Advocate.
For respondent	: Smt. Shobha Kashyap, Dy. GA.

Hon'ble Shri Justice Chandra Bhushan Bajpai**Order On Board****31.3.2016.**

Heard.

2. Facts in brief required for the disposal of the instant petition are that Criminal Case No.503/2012 (State vs. Lukesh Sonkar & Two Ors.) under Section 498-A of the Indian Penal Code is pending before Judicial Magistrate First Class, Raipur. The police investigated the matter and filed charge sheet on First Information Report lodged by the complainant Smt. Durga Sonkar against applicants Lukesh Sonkar, husband of the complainant, Dhaniram

Sonkar and Meera Bai, father-in-law and mother-in-law of the complainant. Charges have been framed and the matter was listed for recording of the statement of the prosecution witnesses. In the said criminal case, the complainant and the accused persons have filed an application under the provisions of Section 320 of the Code of Criminal Procedure, 1973 (for short 'the Code') praying that the complainant and the accused persons have amicably settled their dispute, they may be permitted to compound the matter and the said criminal case may be closed by acquitting the accused applicants. The trial Court vide order dated 14.10.2015 dismissed the said application on the ground that the charge framed under Section 498A of the IPC is of non compoundable nature. After the said order the accused/applicants have preferred the instant petition wherein it is submitted that as the matter is matrimonial and the parties have entered into an amicable settlement and compromised the matter, inherent power of this Court under of Section 482 of the Code is attracted. Section 320 of the Code does not limit the power of this Court for quashment of the entire proceedings in the light of such compromise and as both the parties amicably settled their dispute also the applicant/accused prayed before this Court that by invoking inherent power of this Court the prayer may be accepted and in the light of the settlement between the parties, the same be accepted and criminal proceedings pending before the trial Court be quashed by acquitting the applicants/accused. Applicant No.1 in person along with other applicants through their counsel and the complainant Smt. Durga Sonkar along with her counsel appeared before this Court and prayed that as they have filed the said petition

mutually agreed and compromised and their statement may be recorded. This Court directed the Registrar (Judicial) to record their statement for the compromise and other facts. Their statements were recorded before Registrar (Judl.) wherein they deposed that they have entered into a compromise without fear, favour or threat and complainant Smt. Durg Sonkar prayed that complaint case pending against her husband, father-in-law and mother-in-law may be closed in the light of mutual compromise. Registrar (Judl.) recorded their statement on 10.3.2016.

3. Heard learned counsel for the applicants. Learned counsel placed reliance upon the decision of Hon'ble Apex Court in **BS Joshi and Ors. Vs. State of Haryana and Anr.** reported in **(2003) 4 SCC 675** wherein it is held in paragraph 14 and 15 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 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 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 power 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.”

4. Learned counsel for the applicants further submits that as in Cr.M.P. No.192 of 2009 Karan Singh and Ors. vs. State of Chhattisgarh and Anr., Co-ordinate Bench of this Court vide order dated 22.4.2009 held that the above cited decision of the Apex Court is applicable and it is the duty of the court to encourage genuine settlement of matrimonial disputes and the provision of Section 320 of the Code do not limit or affect the powers of under Section 482 of the Code and thereby allowed the petition filed under Section 482 of the Code in the interest of justice and quashed the criminal proceedings pending before the trial Court. Learned counsel further submits that as in the present case also charges framed under Section 498A IPC is non compoundable as per provision of Section 320 of the Code and as the parties entered into compromise for the charges under Section 498-A IPC voluntarily without any fear or pressure, both the case law cited above are applicable in the present case.

5. Learned counsel for the applicants further prayed that by invoking inherent jurisdiction of this Court under Section 482 of the Code, the petition may be allowed and criminal proceedings pending before the Court below in criminal case No.503/12 may kindly be quashed.

6. Also heard learned counsel for the respondent/State.

7. For the purpose of appreciation regarding arguments advanced in this behalf, the instant criminal misc. petition, annexed documents, cited case law are perused.

8. The complainant on oath stated before Registrar (Judl.) that she had entered into compromise with all the applicants/accused voluntarily without any fear, favour or threat. She has also filed an application before the court below along with application under Section 320(2) of the Code for accepting the compromise and before the Registrar (Judicial) also complainant stated and affirmed that she had entered into compromise with her husband, father-in-law and mother-in-law without any fear or pressure or threat and she further prayed that criminal proceedings against them may be quashed.

9. On due consideration, looking to the entire facts placed before this Court and also in the light of the cited judgment of the Hon'ble Apex Court and also Co-ordinate Bench of this Court, this Court is of the view it would be in the interest of the justice to allow the instant Cr.M.P. by invoking inherent power under Section 482 of the Code and to quash the criminal proceedings pending before Judicial Magistrate First Class, Raipur.

10. Consequently, the petition is allowed and the criminal proceedings before Judicial Magistrate First Class, Riapur in Criminal Case No.503/12 (State of Vs. Lukesh Sonkar & Two Ors.) pending for trial under Section 498A of the Indian Penal Code are hereby quashed.

11. The Cr.M.P. is allowed.

Sd/-
(Chandra Bhushan Bajpai)
JUDGE