

HIGH COURT OF CHHATTISGARH, BILASPUR**Cr.M.P. No. 151 of 2016**

1. Barat Ram S/o Shri Khubi Ram Patel Aged About 43 Years R/o Village Judga, Police Station Sakti, Civil & Rev. District Janjgir Champa Chhattisgarh.
2. Ram Lal S/o Shri Khubi Ram Patel Aged About 31 Years R/o Village Judga, Police Station Sakti, Civil & Rev. District Janjgir Champa Chhattisgarh.
3. Ram Kumar S/o Shri Khubi Ram Patel Aged About 29 Years R/o Village Judga, Police Station Sakti, Civil & Rev. District Janjgir Champa Chhattisgarh.
4. Madhusudan S/o Shri Khubi Ram Patel Aged About 39 Years R/o Village Judga, Police Station Sakti, Civil & Rev. District Janjgir Champa Chhattisgarh.
5. Khubi Ram S/o Kartik Ram Aged About 70 Years R/o Village Judga, Police Station Sakti, Civil & Rev. District Janjgir Champa Chhattisgarh.
6. Shyam Bai @ Temarhin W/o Khubi Ram Aged About 65 Years R/o Village Judga, Police Station Sakti, Civil & Rev. District Janjgir Champa Chhattisgarh.

---- Applicants**Versus**

1. State Of Chhattisgarh Through Station House Officer, Police Station Sakti, District Janjgir Champa Chhattisgarh.
2. Budhwara Bai W/o Barat Ram Aged About 40 Years R/o Village Judga, Police Station Sakti, Civil & Rev. District Janjgir Champa Chhattisgarh.

---- Non- Applicants

For Applicants	:	Shri Iswar Jaiswal, Advocate.
For Respondent No.1/ State	:	Shri Lav Sharma, Panel Lawyer.
For Respondent No.2	:	Shri Akhtar Hussain, Advocate.

Hon'ble Shri Justice Chandra Bhushan Bajpai**Order On Board****03/02/2016**

1. Heard on the instant Cr.M.P.
2. Issue notice to the Respondents. Learned counsel appearing on behalf of Respondents No.1 and 2 accept notice on behalf of the Respondents No.1 and 2.

3. Applicants – Barat Ram, Ram Lal, Ram Kumar, Madhusudan, Khubi Ram and Shyam Bai @ Temarhin are present in person alongwith their counsel. Respondent No.2 – Budhwara Bai is also present in person alongwith her counsel. The parties were identified by their respective counsel.

4. With the consent of both the parties, the petition is heard finally at the motion stage itself.

5. Brief facts required for disposal of the instant Cr.M.P. are that on a complaint made by Respondent No.2, Criminal Case No.798 of 2015 i.e. State of Chhattisgarh vs. Barat Ram and 5 Others (old No. 260 of 2011) has been registered before the Judicial Magistrate, First Class, Sakti, District Janjgir-Champa, Chhattisgarh. Earlier on 6.6.2011, State had filed charge-sheet against the Applicants under Section 498A, 506(2) and 323/ 34 of the Indian Penal Code (for short 'the IPC') before the Court below, which has rejected the application for permission to compound the offence as Section 498A of the IPC is not compoundable and held that the trial will continue.

6. The Applicants has filed the instant Cr.M.P. invoking the jurisdiction of this Court under Section 482 of the Code of Criminal Procedure, 1973 (for short 'the Code') and pray that under the provisions of Section 320 of the Cr.P.C, the offence under Section 498A of IPC is not compoundable, but in light of the various judgments of the Apex Court, this Court may kindly be pleased to allow the instant petition and quash further proceedings pending before the trial Court and the Applicants may be acquitted on the basis of the compromise.

7. All the Applicants and Respondent No.2 are present before this Court and orally submitted that they have mutually agreed for the compromise.

8. On behalf of counsel for Respondent No.2, it is submitted that before the trial Court the victim/ complainant on oath stated that she entered into a compromise with the accused persons without any pressure or fear. She had entered into a compromise with the Applicants voluntarily. This fact also reflects in the order-sheet of the trial Court dated 23.10.2015.

9. Learned counsel for the Applicants relied upon a decision of the Hon'ble Apex Court in B.S. Joshi and Others vs. State of Haryana and Another reported in (2003) 4 SCC 675 wherein it is held in paragraphs 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.”

10. Learned counsel further submits that as in Cr.M.P. No. 192 of 2009 Karam Singh and Ors vs. State of Chhattisgarh and Anr, a 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 provisions 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 as in the present case also only Section 498-A is non-compoundable as per provisions of Section 320 of the Code, the trial Court has also accepted the compromise for other penal offence, the parties entered into a compromise also for Section 498A of the IPC voluntarily without any fear or pressure, both the case law cited above are applicable in the present matter. Learned counsel further prays that by invoking the inherent jurisdiction of this Court under Section 482 of the Code, the petition may be allowed and the criminal proceedings pending before the Court below in Criminal Case No. 798 of 2015 may kindly be quashed.

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

12. Respondent No.2 on oath stated before the Court below that she wants to compromise with the accused voluntarily without any fear or pressure. She also filed an application before the Court below alongwith the Applicants under Section 320 sub-section 2 of the Code alongwith compromise petition. Before this Court also Respondent No.2 categorically

admitted that she had entered into a compromise voluntarily without any pressure or fear with the Applicants and prays that the petition may be allowed.

13. On due consideration, looking to the entire facts placed before this Court and also in light of above cited judgments of Hon'ble Apex Court and also Co-ordinate Bench of this Court, this Court is of view that it would be in the interest of justice to allow the petition and quash criminal proceedings pending before the Judicial Magistrate, First Class, Sakti, District Janjgir-Champa, Chhattisgarh.

14. Consequently, the petition is allowed and criminal proceedings pending before the Court of Judicial Magistrate, First Class, Sakti, District Janjgir-Champa, Chhattisgarh in Criminal Case No. 798 of 2015 (State of Chhattisgarh vs. Barat Ram and 5 Others) pending for trial under Section 498A of the IPC are hereby quashed.

15. The Cr.M.P. is allowed.

Sd/-

Chandra Bhushan Bajpai
Judge