

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Mic. Petition No. 295 of 2016**

Smt. Kamal Dahariya D/o Bhagwati Dahariya Aged About 25 Years
W/o Shri Doulatram Banjare, R/o Bade Ragra, Indori, P.S. Pipariya,
Tahsil & Dist. Kawardha/kabirdham. At Present Residing At Village
Vidyanagar, Ward No. 1, Navrangpara, Bemetara, Tehsil & District
Bemetara, Chhattisgarh.

---- Petitioner**Versus**

1. State Of Chhattisgarh Through Police Station Pipariya, Tahsil & District Kavradha, Kabirdham, Chhattisgarh.
2. Daulatram Banjare S/o Shri Jai Singh Banjare, aged about 27 years, R/o Vidya Nagar, Ward No.1, Nawarangpara, Bemetara, Tahsil and District Bemetara (C.G.)

---- Respondents

For Petitioner :	Mr. R.S. Patel, Advocate
For State/Respondent No.1:	Mr. Vaibhav A. Goverdhan, Panel Lawyer
For Respondent No.2:	Mr. Suresh Tandon, Advocate

Hon'ble Shri Justice P. Sam Koshy**Order on Board****20.06.2016**

1. The present Misc. Petition has been preferred seeking quashment of the criminal proceedings initiated against the Petitioner under Sections 193 & 211 of the Indian Penal Code vide order dated 20.02.2015 passed by the Chief Judicial Magistrate, District – Kawardha (Kabirdham) in Criminal Case No. 152/2015.

2. A brief fact of the case is that the Petitioner initially has lodged a FIR before Police Station, Piparia on 24.05.2014 alleging an act of rape against Respondent No.2 and upon which Crime No. 124/2015 was registered. After investigation, Respondent No.2 was arrested on

14.06.2014 and charge-sheet was filed on 05.07.2014 and thereafter the matter was put to trial before the Additional Sessions Judge, Kabirdham vide Sessions Trial No. 39/2014. The Additional Sessions Judge after conclusion of the trial vide judgment dated 09.10.2014 acquitted Respondent No. 2 from all the charges leveled against him. However, the Court below at the time of passing of the judgment directed lodging of complaint against the present Petitioner for registering a false complaint against Respondent No.2 and also for giving false statement before the Police authorities on the basis of which the Police has registered Istgasa on 16.02.2015 and a case was registered by the Police Station - Pipariya on 20.02.2015 against the present Petitioner for the offence punishable under Sections 193 & 211 of the Indian Penal Code. Thereafter, a Criminal Case No. 152/2015 was also registered against the present Petitioner before the Court of Chief Judicial Magistrate, Kabirdham and the present Petitioner has been released on bail vide order dated 20.03.2015. The present Petition under Section 482 of Cr.P.C. has been preferred seeking quashment of the Criminal Case initiated against the present Petitioner.

3. Learned Counsel for the Petitioner submits that the facts related with the adjudication of the present case is that initially the Petitioner and Respondent No.2 were known to each other and during the course of time they had developed intimate relationship between them and it is said that Respondent No.2 also had made physical relationship with the Petitioner on the pretext of marriage and subsequently it is said that Respondent No. 2 did not abide by his promise of marrying her which

led to filing of a FIR on 24.05.2014, on the basis of which a case under Section 376 of the I.P.C. was lodged against Respondent No.2. Later on, it is said that the differences between the Petitioner and Respondent No.2 was patched up. Respondent No.2 and the Petitioner got married on 30.09.2014. A copy of the marriage certificate is also annexed as Annexure No.4 with the present Petition. Since 30.09.2014 the Petitioner and Respondent No.2 are staying together and leading a happy married life. Since the dispute between the parties had been patched up, the Petitioner in order to save Respondent No.2 from further being prosecuted for the offence under Section 376 of the I.P.C. appear before the Court and sans her earlier statement on the basis of which Respondent No. 2 got acquittal on 09.10.2014.

4. Learned Counsel for the Petitioner prays that taking into consideration the facts and circumstances of the case wherein the reasons for the Petitioner disowning her earlier statement and also the fact that both the complainant and the accused have settled their differences and are now happily living together, the Petitioner in order to save Respondent No.2 from being prosecuted made such a statement before the Court in the case under Section 376 of I.P.C.. Moreover, in the event if proceedings is drawn it may adversely affect the matrimonial life of the Petitioner and Respondent No.2. He further submits that even Respondent No.2 also is not interested in prosecuting the present Petitioner for the offence where she had been charged with. In addition, no fruitful purpose would be served if the Petitioner is prosecuted for the offence punishable under Section 193 &

211 of the I.P.C. He further submits that it is the case where in the peculiar circumstances of the case the complaint was lodged. Now that the parties have resolved their grievance by amicably settling the dispute and the fact that the either parties are married to each other and staying together, the instant proceeding under the judgment in the present Petition may be quashed.

5. Learned Counsel appearing for Respondent No.2 also supports contentions put forth by the Petitioner and prays that the proceedings against the Petitioner

may be quashed taking into consideration of the fact that the Petitioner as well as Respondent No.2 are happily married and staying together since 30.09.2014 onwards.

6. Learned State Counsel on verification of the facts and circumstances of the case and also taking into consideration of the fact that the dispute in fact is now one between a husband and a wife, does not oppose the Petition.

7. Taking into consideration the entire facts and circumstances of the case particularly the fact that the Petitioner is genuinely explaining under what compelling circumstances she had lodged the FIR against Respondent No.2 on 24.05.2014 and under what circumstance did she appear before the Court disowning her earlier statement on the basis of which Respondent No. 2 has been acquitted. Also, taking into consideration the law laid down by the Supreme Court in cases of **B.S. Joshi and Others Vs. State of Haryana and Another** reported in

(2003) 4 SCC 675 and **Narinder Singh and Others Vs State of Punjab and Another** reported in **(2014) 6 SCC 466** this Court is of the opinion that the present is a fit case where the proceedings initiated against the present Petitioner under Section 193 & 211 of the I.P.C. deserves to be dropped, accordingly it is quashed and the Petitioner shall stand discharged from the said offences.

8. The present Criminal Miscellaneous Petition is allowed.

Sd/-
(P. Sam Koshy)
JUDGE