

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CR.M.P. No. 12 of 2016

1. Kapil Sahu, S/o. Lalit Sahu, aged about 29 years,
 2. Lalit Sahu, S/o. Uttam Singh Sahu, aged about 55 years
 3. Smt. Durgesh Nandani, W/o. Lalit Sahu, aged about 50 years,
 4. Chandan Sahu, S/o. Lalit Sahu, aged about 25 years,
- All are R/o. Quarter No.P-9, Adarsh Nagar, Durg, District – Durg (C.G.)

---- Petitioners

Versus

1. State Of Chhattisgarh Through : the Mahila Thana Durg, District – Durg (C.G.)
2. Smt. Kanak Sahu, W/o. Kapil Sahu, aged about 28 years, R/o. Sangam Chowk Urla, Tahsil and District – Durg (C.G.)

---- Respondents

For Petitioners	: Mr. Atanu Ghosh, Advocate
For Respondent No.1/State	: Mr. Satish Gupta, Govt. Advocate
For Respondent No.2	: Mr. Mayank Chandrakar, Advocate.

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

28/01/2016

1. This petition is against the order dated 24/11/2015, passed by the Judicial Magistrate First Class, Durg, District Durg, in Criminal Case No. 210/2013. By such order, an application filed by the parties i.e. the complainant and the accused persons under Section 320 of Cr.P.C. was dismissed.
2. The brief facts of the case are that petitioner No.1, Kapil Sahu was married to respondent No.2/complainant, Smt. Kanak Sahu on 06.05.2013. Subsequently, the husband and wife could not go along, consequently, a report was made by the respondent No.2 on 18.07.2013 at Durg, thereby a case was registered under Section

498A, 406 read with Section 34 of I.P.C. and Section 4 of Prohibition of Dowry Act.

3. During the pendency of the criminal case, a compromise petition for compromise was filed on 24.11.2015 by the parties stating that parties have settled their dispute and the complainant is now living separately and do not want to continue with the criminal proceedings. Therefore, the case which is pending against the petitioners be dropped. The said application having been dismissed, hence this petition.
4. Before this Court the parties are presents. The complainant, Smt. Kanak Sahu, who is the wife on being asked by the State counsel as to whether she has arrived into compromise, she affirmed the fact that she is living separately and she do not want to continue with the criminal proceeding. It is submitted by the parties that they have amicably settled the dispute and the complainant do not want to continue with the criminal case and has compromised the case outside the Court without any fear, undue influence or any pressure. Consequently, the criminal case pending before the Court below be quashed.
5. The Hon'ble Supreme Court in ***Gian Singh v. State of Punjab & Another¹*** has laid down the following principles :

“61. The position that emerges from the above discussion can be summarised thus: the power of the High Court in quashing a criminal proceeding or FIR or complaint in exercise of its inherent jurisdiction is distinct and different from the power given to a criminal court for compounding the offences under Section 320 of the Code. Inherent power is of wide plenitude with no

1. (2012) 10 SCC 303

statutory limitation but it has to be exercised in accord with the guideline engrafted in such power viz; (i) to secure the ends of justice or (ii) to prevent abuse of the process of any Court. In what cases power to quash the criminal proceeding or complaint or F.I.R may be exercised where the offender and victim have settled their dispute would depend on the facts and circumstances of each case and no category can be prescribed. However, before exercise of such power, the High Court must have due regard to the nature and gravity of the crime. Heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. cannot be fittingly quashed even though the victim or victim's family and the offender have settled the dispute. Such offences are not private in nature and have serious impact on society. Similarly, any compromise between the victim and offender in relation to the offences under special statutes like Prevention of Corruption Act or the offences committed by public servants while working in that capacity etc; cannot provide for any basis for quashing criminal proceedings involving such offences. But the criminal cases having overwhelmingly and pre-dominantly civil flavour stand on different footing for the purposes of quashing, particularly the offences arising from commercial, financial, mercantile, civil, partnership or such like transactions or the offences arising out of matrimony relating to dowry, etc. or the family disputes where the wrong is basically private or personal in nature and the parties have resolved their entire dispute. In this category of cases, High Court may quash criminal proceedings if in its view, because of the compromise between the offender and victim, the possibility of conviction is remote and bleak and continuation of criminal case would put accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal

case despite full and complete settlement and compromise with the victim. In other words, the High Court must consider whether it would be unfair or contrary to the interest of justice to continue with the criminal proceeding or continuation of the criminal proceeding would tantamount to abuse of process of law despite settlement and compromise between the victim and wrongdoer and whether to secure the ends of justice, it is appropriate that criminal case is put to an end and if the answer to the above question(s) is in affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding.

62. In view of the above, it cannot be said that *B.S. Joshi, Nikhil Merchant and Manoj Sharma* were not correctly decided. We answer the reference accordingly. Let these matters be now listed before the Bench(es) concerned”

6. The Hon'ble Supreme Court in ***B.S.Joshi & Ors. v. State of Haryana & Anr.***² has held 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 the 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.

2. (2003) 4 SCC 675

15. In view of the above discussion, we hold that the High Court in exercise of its inherent powers 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.”

7. Furthermore, the Hon'ble Supreme Court in case of ***Jitendra Raghuvanshi and others v. Babita Raghuvanshi and another***³ has examined scope of compromise under Section 320 of Cr.P.C. in offence of non-compoundable nature.
8. The Hon'ble Supreme Court referred to various cases and has laid down that in cases of matrimonial matters, court should exercise power under Section 482 of Cr.P.C. sparingly and only it may exercise when the court is convinced, on the basis of material on record, that allowing the proceedings to continue would be an abuse of process of court or that the ends of justice require that the proceedings ought to be quashed.
9. In the instant case, the wife/complainant is present in person before this Court and submits that the matter has already been settled and she is living separately and they do not want to continue with the criminal case. Copy of compromise application is also placed on record. On enquiry being made, complainant/wife submits that she is living separately and submits that the compromise has been done without any fear or favour. Therefore, considering the facts of this case, it would be in the interest of justice to quash the proceeding of Criminal Case No.210/2013, pending before the Judicial Magistrate First Class, Durg, District – Durg (C.G.) arising out of Crime No.28/2013.

3 (2013) 4 SCC 58

10. In the result, proceedings of Criminal Case No.210/2013, arising out of the Crime No.28/2013, pending before Judicial Magistrate First Class, Durg, District – Durg is quashed. Petitioners are acquitted of the charges.
11. Accordingly, the petition stands allowed.

Sd/-
(Goutam Bhaduri)
Judge