

**NAFR**

**HIGH COURT OF CHHATTISGARH, BILASPUR**

**CRMP No. 29 of 2016**

1. Romir Sumit Goyal, S/o Shri Hanuman Prasad Goyal, Aged About 32 Years, R/o 10/F-201, Friends' Residency, Nutan Chowk, Sarkanda, Bilaspur, Distt. Bilaspur Chhattisgarh
2. Hanuman Prasad Goyal, S/o Late Shri Khushiram Goyal, Aged About 58 Years, R/o Chanakyapuri Colony, Satna (M.P.)
3. Smt. Sarla Goyal, W/o Hanuman Prasad Goyal, Aged About 56 Years, R/o Chanakyapuri Colony, Satna (M.P.)
4. Amit Goyal, S/o Shri Hanuman Prasad Goyal, Aged About 30 Years, R/o Chanakyapuri Colony, Satna (M.P.)
5. Vipul Arya, S/o Shri Virendra Arya, Aged About 37 Years, R/o Near Budgaon Petrol Pump, Gud Chowk, Reeve M.P.

**---- Petitioners**

**Versus**

1. State of Chhattisgarh Throguh Station House Officer, Police Station Supela, Bhilai, Distt. Durg Chhattisgarh.
2. Megha Agrawal (Goyal), D/o Bajranglal Agrawal, Aged About 27 Years, R/o. Nehru Nagar (West), 20 B/12, Bhilai, Distt. Durg Chhattisgarh

**---- Respondents**

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| For Petitioners           | : | Ms Fouzia Mirza, Advocate        |
| For Respondent No.1/State | : | Mr. Satish Gupta, Govt. Advocate |
| For Respondent No.2       | : | Mr. Vinod Dubey, Advocate        |

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**Hon'ble Shri Justice Goutam Bhaduri**

**Order On Board**

**12.01.2016**

1. Challenge in this petition is to quash the entire FIR against the petitioners initiated by the Respondent No. 2 ( Megha Agrawal)

wherein the offence punishable under section 420, 498A read with section 34 of Dowry Prohibition Act has been registered under the crime No. 1064/14 before Police Station- Supela District – Durg (C.G.). The charge sheet is yet to be filed.

2. The facts involved in this case is that, the Petitioner No. 1 (Romir Sumit Goyal) was married to Respondent No. 2 ( Megha Agrawal) on 04.02.2014, as per Hindu rites and ritual, thereafter, the Respondent No. 2 was continued in her matrimonial house, however, for some reasons or the other, the parties could not go along with their marriage and ultimately the respondent No. 2 filed a written complaint against the Petitioners. While such complaint was investigated, a case under section 13B of the Hindu Marriage Act was filed before the Principal Judge, Family Court, Durg for grant of decree of divorce by mutual consent on 30.11.2015. Before this Court, both the parties contended that they do not want to continue with the marriage and a decree of divorce on mutual consent has been filed which is pending to follow the statutory period for consideration.
3. In the instant petition, further an application under section 320 of Cr.P.C. for compounding the offence was filed stating that the parties have settled their dispute and the complainant is now residing separately and do not want to continue with the criminal proceedings. Therefore, this criminal case registered against the petitioner be quashed.

4. Before this Court the parties are presents. The complainant, Smt. Megha Agrawal, who is the wife of Petitioner No. 1, Romir Sumit Goyal, 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 case. She further submits that as per the agreement between the parties, total amount of Rs. 11 lakhs has been arrived at between the parties out of that Rs. 4 lacs has been paid on 30.11.2015 and subsequently an amount of Rs. 4 lacs has been paid today i.e. on 12.01.2016 and a post dated cheque of Rs. 3 lacs on dated 21.06.2016 was given on 12.01.2016. It has also been contended by the Respondent No.2 (Megha Agrawal) that since they have settled their dispute and she do not want to continue with the criminal case. 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 FIR registered under Crime No. 1064/2014 under sections 420, 498A/ 34 of IPC and section 3 & 4 of Dowry Prohibition Act registered at Police Station- Supela District Durg be quashed.
5. The Hon'ble Supreme Court in ***Gian Singh v. State of Punjab & Another***<sup>1</sup> 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

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1. (2012) 10 SCC 303

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 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.***<sup>2</sup> 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

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2. (2003) 4 SCC 675

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 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***<sup>3</sup> 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 dispute between the parties have already been settled and she is living separately and she 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 compromise is affected without any

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3 (2013) 4 SCC 58

fear or favour. Therefore, considering the facts of this case, it would be in the interest of justice to quash the Crime No. 1064/2014 under sections 420, 498A/ 34 of IPC and section 3 & 4 of Dowry Prohibition Act registered at Police Station- Supela District Durg (C.G.).

10. In the result, proceedings of Crime No. 1064/2014 under sections 420, 498A/ 34 of IPC and section 3 & 4 of Dowry Prohibition Act registered at Police Station- Supela District Durg is quashed. Petitioners are acquitted of the charges.

11. Accordingly, the petition stands allowed.

Sd/-  
**(Goutam Bhaduri)**  
**Judge**