

AFR**HIGH COURT OF CHHATTISGARH, BILASPUR****CRMP No. 200 of 2016**

1. Triloki Tiwari S/o Pitamber Prasad Tiwari Aged About 38 Years
2. Smt. Durgeshwari Tiwari W/o Triloki Tiwari Aged About 29 Years
3. Kripashanker @ Ballu S/o Kishore Chaturvedi Aged About 30 Years
4. Smt. Janki Chaturvedi W/o Kishore Chaturvedi Aged About 47 Years
5. Kishore Chaturvedi S/o Devi Prasad Chaturvedi Aged About 51 Years

All are R/o Village - Parkom, Police Outpost -Komakhan, P.S. - Bagbahra
Civil & Revenue Distt. Mahasamund Chhattisgarh

---- Petitioners**Versus**

1. State of Chhattisgarh through the District Magistrate Mahasamund, Distt. Mahasamund Chhattisgarh
2. Deepmalal Chaturvedi W/o Kripashanker @ Ballu Chaturvedi Aged About 25 Years R/o Village - Parkom, Police Outpost -Komakhan, P.S. - Bagbahra Civil & Revenue Distt. Mahasamund Chhattisgarh

---- Respondents

For Petitioners	:	Mr. Sunil Sahu, Adv.
For Respondent No. 1	:	Mr. L.K. Sharma, Panel Lawyer
For Respondent No. 2/Complainant	:	Mr. Wasim Miyan, Adv.

Order On Board**05/04/2016**

1. With consent of the parties, heard the matter finally at motion stage itself.
2. Facts in brief required for disposal of instant CRMP are that Cr. Case No. 623/2014 (State of Chhattisgarh -v- Triloki Tiwari and 4 others) is pending before the Judicial Magistrate First Class, Mahasamund. On 15-7-2014, the trial Court framed charges against all the accused/petitioners for offence under Section 498A/34 of the Indian Penal Code, 1860 (in brevity 'IPC') and Sections 3, 4 of the Dowry Prohibition Act, 1961 (in brevity 'Act of 1961'). All the accused/petitioners denied the charges. The court below recorded their pleas and listed the matter for evidence on 5-1-2016. On 5-1-2016, a joint application was filed before the trial Court by complainant Smt. Deepmala Chaturvedi, wife of Kripashankar @ Ballu along with other accused persons that they have settled their dispute amicably outside the court and hence, the compromise arrived at by the parties may be allowed and the said criminal case be disposed of by acquitting the accused/petitioners. The trial Court held that as Section 498A of the IPC is not included under the provisions of Section 320 of the Code of Criminal Procedure, 1973 (in

brevity 'Cr.P.C.') as a compoundable offence hence rejected the application for compromise. After said order, the accused/petitioners have preferred instant petition invoking inherent jurisdiction vested to this court under Section 482 of the Cr.P.C. and submitted that the matter is matrimonial. Parties have entered into amicable settlement and compromised the matter. Victim/complainant Smt. Deepmala Chaturvedi the lodger of the FIR is living peacefully with all the accused/petitioners and she does not want to proceed further in the said criminal case as they have amicably settled their dispute and compounded the matter. By filing instant CRMP it is prayed that inherent power of this court under Section 482 of the Cr.P.C. is attracted. Section 320 of the Cr.P.C. does not limit the power of this Court for quashment of the entire proceedings in the light of such compromise. As both the parties have amicably settled their dispute, a prayer is made before this Court that in the light of the settlement between the parties, compromise may be accepted and criminal proceedings pending before the trial Court be quashed by acquitting the petitioners/accused. On 15-2-2016, petitioner Triloki Tiwari, Smt. Durgeshwari Tiwari, Kripashankar, Smt. Janki Chaturvedi and Kishore Chaturvedi and victim /complainant Deepmala were present in person before this court. At their request they were directed to appear before the Registrar (Judicial) for recording their statements on oath. On the same day, Registrar (Judicial) recorded their statements regarding compromise. After recording of their statements they prayed that they have filed application under sub-section (2) of Section 320 of the Cr.P.C. before this Court and compromised the matter, said application be allowed and the instant CRMP be also allowed and the matter pending before the trial Court be quashed by exercising inherent jurisdiction vested to this court under Section 482 of the Cr.P.C.

3. Heard counsel for the petitioners.
4. Learned counsel for the petitioners placed reliance in the judgment of Hon'ble Supreme Court in the matter of **B.S. Joshi and others -v- 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.”

5. Learned counsel for the applicants further submits that in the decision passed by this Court in CRMP No. 1203/2015 (Lukesh Sonkar and others -v- State of Chhattisgarh) dated 31-3-2015, in almost similar situation, this court 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 wherein it is submitted that the parties are living peacefully and settled their dispute. The provision of Section 320 of the Cr.P.C. does not limit or affect the powers of the court under Section 482 of the Cr.P.C. and thereby allowed the petition filed under Section 482 of the Cr.P.C. in the interest of justice and quashed the criminal proceedings pending before the trial Court. Learned counsel further submits that in the present case also charge framed under Section 498A IPC read with Section 3, 4 of the Act of 1961 is non-compoundable as per provision of Section 320 of the Cr.P.C. and the parties have entered into compromise for the charges under Section 498-A IPC and Section 3, 4 of the Act of 1961, voluntarily without any fear or pressure, and both the case law cited above are applicable in the present case.
6. Learned counsel for the applicants further prayed that by invoking inherent jurisdiction of this Court under Section 482 of the Cr.P.C., the petition may be allowed and criminal proceedings pending before the Court below in criminal case No.623/2014 may kindly be quashed.
7. Also heard learned counsel for the respondent/State and respondent No. 2/ complainant.
8. Learned counsel for R-2 submits that as the complainant/ respondent No. 2, the lodger of FIR is living peacefully with the petitioners, they have settled their dispute outside the court, the instant petition may be allowed and the proceedings pending before the trial Court may be quashed.
9. For the purpose of appreciation regarding arguments advanced in this behalf, the instant criminal misc. petition, annexed documents, cited case

law are perused.

10. The complainant on oath stated before Registrar (Judl.) that she has entered into compromise with all the petitioners/accused voluntarily without any fear, favour or threat. She is also living peacefully with the petitioners. The petitioners have filed an application under Section 320 of the Cr.P.C. to permit them to make compromise with the complainant/R-2. All the petitioners have stated on oath that they have entered into a compromise with the complainant/R-2 and they are living peacefully without any fear, favour or threat. Both the parties prayed that the criminal proceedings pending against the petitioners may be quashed.
11. On due consideration, looking to the entire facts placed before this Court and also in the light of the cited judgments of the Hon'ble Apex Court and also of this Court, this Court is of the view that 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 Cr.P.C. and to quash the criminal proceedings pending before Judicial Magistrate First Class, Mahasamund.
12. Consequently, the instant petition is allowed and the criminal proceedings pending before Judicial Magistrate First Class, Mahasamund in Criminal Case No.623/2014 (State of Vs. Triloki and four ors.) pending for trial under Section 498A of the IPC and Sections 3 and 4 of the Act of 1961 are hereby quashed. I.A. No. 1/16 is allowed. As per provisions of sub-section (8) of Section 320 of the Cr.P.C., allowing the composition of an offence aforementioned shall have the effect of an acquittal of the accused/petitioners with whom the offence has been compounded.
13. To part with, perusal of the order dated 15-7-2014 regarding framing of the charges goes to show that the trial Court mentioned that he has framed charges only under Section 498-A/34 of the IPC against the accused persons, but on perusal it is found that in addition to Section 498-A of the Cr.P.C., the trial Court has also framed charges for offence under Sections 3, 4 of the Act of 1961. Therefore, the concerned presiding officer committed error by not mentioning the fact of framing of charges against all the accused persons also for Sections 3, 4 of the Act of 1961. Registrar (Judicial) is directed to send a copy of this order to the concerned presiding officer for not repeating same mistake with a direction to mention complete facts regarding framing of the charges.
14. Also from perusal of statements on oath recorded as directed by this

Court, it is found that the Registrar (Judicial) recorded the statements of the petitioners and complainant but in all the deposition sheets, designation of the concerned officer is mentioned as 'Additional Registrar (Judicial)' whereas the depositions sheets have been signed by the Registrar (Judicial). Registrar General is directed to serve a copy of the order to the Registrar (Judicial) with a direction not to repeat this mistake.

15. Instant CRMP is allowed.

16. The petitioners may file copy of this order to the trial court for information and compliance. Registrar (Judicial) is directed to send a copy of the order to the concerned trial court through usual and fax mode for compliance.

Sd/-
(Chandra Bhushan Bajpai)
Judge