

NAFR

**HIGH COURT OF CHHATTISGARH, BILASPUR****CRMP No. 242 of 2016**

1. Smt. Akanksha Tiwari W/o Abhishek Tiwari Aged About 25 Years At Present R/o C/o Santosh Kumar Awasthi, Bramhapuri, Raipur, Police Station Purani Basti, Raipur, Tahsil And District Raipur Chhattisgarh.

---- Petitioner

**Versus**

1. State Of Chhattisgarh Through The Incharge, Mahila Thana, Raipur, District Raipur Chhattisgarh.
2. Abhishek Tiwari S/o Vijay Shankar Tiwari Aged About 32 Years R/o Marwahi, District Bilaspur Chhattisgarh.
3. Vijay Shankar Tiwari S/o Mangli Prasad Tiwari Aged About 65 Years R/o Marwahi, District Bilaspur Chhattisgarh.

---- Respondents

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|---------------------|---|----------------------------------|
| For Petitioner      | : | Shri Devarshi Thakur, Advocate   |
| For Respondent No.1 | : | Smt. M. Asha, PL on advance copy |

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**Hon'ble Shri Justice Chandra Bhushan Bajpai**  
**Order On Board**

**25/02/2016**

1. Heard.
2. The brief facts required for appropriate adjudication of the instant petition are that the Mahila Police Station, Raipur (CG) had filed a charge sheet bearing Crime No. 38/2014 under Sections 498A, 34 and 506 IPC against respondents 2 and 3 which is pending as Case No.16497/2014 before the Judicial Magistrate First Class, Raipur (CG). The matter was referred for mediation and as per communication of the Incharge Mediation Center dated 29.10.2015, mediation became successful. Before the trial Court, an application under Section 320(2) of the Code of Criminal Procedure, 1973 (for short the Code) has been filed on behalf of the

petitioner i.e. complainant/victim for permission to compounding the offence. On 22.12.2015, the trial Court heard on the said interim application and passed the order and held that the accused/respondents 2 & 3 have not submitted for the fact of mutual compromise, hence, the matter was listed for evidence. Against the said order, the petitioner had filed the instant Cr.M.P. It is submitted that in (2003) 4 SCC 675 (B.S. Joshi and others Vs. State of Haryana & another), the Hon'ble Apex Court held that for the offence under Section 498A IPC, if there is a possibility of mutual settlement and likelihood for reunion, the Courts are having inherent jurisdiction to quash the proceedings or FIR though not provided with the procedural law and Section 320 of the Code does not limit or affect the powers under Section 482 of the Code. It is submitted that in the mediation the same was successful and it was said to the petitioner that if she will enter into a compromise then only she will be taken to the family. It is submitted that the order passed by the Court below requires interference in the light of inherent powers and jurisdiction. The proceedings pending before the Judicial Magistrate First Class, Raipur be quashed by allowing the instant petition.

3. Heard counsel for the petitioner on admission.

4. Learned counsel for the petitioner elaborately supported the grounds taken and emphasized that despite the reluctance on behalf of respondents 2 and 3 looking to the law reiterated by the Hon'ble Apex Court, the petition may be allowed and proceedings may be quashed.

5. From perusal of the entire material, it goes to show that the charge sheet has been filed under Sections 498 A, 34 and 506 IPC before the Judicial Magistrate First Class, Raipur and the same is pending. The matter was referred for mediation. The mediation was successful. Thereafter, an application was filed on behalf of the complainant alone before the Court

below under Section 320 (2) of the Code for permission to compound the offence. On 22.12.2015 the application was heard by the trial Court. The accused /respondents denied for any mutual compromise. Thereafter, the Court below listed the matter for evidence. It is clear from the order that the application under Section 320 (2) of the Code is not finally disposed of and is deemed to be pending unless expressly dismissed by the Court below; also looking to the fact that respondents 2 and 3 pleaded for no any compromise in the matter.

6. On due consideration of the fact that the petitioner had approached this Court prematurely, hence, the petition is liable to be dismissed as premature.

7. Accordingly, the petition is dismissed as premature without any appreciation on its merits.

Sd/

(Chandra Bhushan Bajpai)

Judge