

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRIMINAL MISC. PETITION NO. 702 OF 2016

1. Sammer Bhai Patel S/o Ramlochan Patel, aged about 30 years
2. Ram Lochan Patel S/o Late Radha Prasad Patel, aged about 62 years
3. Smt. Kismat Devi W/o Ramlochan Patel, aged about 58 years
4. Smt. Pushpa D/o Ram Lochan Patel W/o Sandeep Kumar Patel, aged about 26 years

All are R/o Village- Shivri, P.S. Outpost- Wadrafnagar, District- Balrampur-Ramanujganj, Civil District- Surguja, Revenue District- Balrampur-Ramanujganj (C.G.)

... Applicants

Versus

1. The State of Chhattisgarh, through P.S. Chalgali, Wadrafnagar, District Balrampur-Ramanujganj (C.G.)
2. Lalita Patel D/o Aanand Lal Patel W/o Sameer Bhai Patel, aged about 25 years, Village Tendua, P.S. Patna, District Koriya (C.G.)

... Non-applicants

For Applicants	:	Mr. A.K. Prasad, Advocate.
For Non-applicant No.1	:	Mr. Rajendra Tripathi, Panel Lawyer.
For Non-applicant No.2	:	Mr. S.K. Gupta, Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

08/08/2016

1. The present petition under Section 482 CrPC has been preferred by the Applicants/Accused seeking for quashment of the criminal proceedings in Criminal Case No. 123 of 2010 pending before the Judicial Magistrate First Class, Wadrafnagar, District Balrampur.
2. Brief facts of the case are that the Non-applicant No.2/Complainant, Lalita Patel, who was the wife of Applicant No.1, Sammer Bhai Patel (now divorced), had initially lodged a complaint under Section 498-A read with Section 34 of IPC against the Applicants/Accused on the basis of which an FIR was registered at Police Station Patna (Koriya) which was subsequently transferred to Police Station Chalgali (Surguja) and

thereafter the matter was put to trial before the Judicial Magistrate First Class, Wadrafnagar in Criminal Case No.123 of 2010.

3. That prior to the lodging of the FIR, the Applicant No.1, Sammer Bhai Patel, had filed a suit for a decree of divorce and for dissolution of marriage under Section 13 of the Hindu Marriage Act. The Additional District Judge, Pratappur (Surajpur) vide its order dated 31.8.2012 allowed the said application filed under Section 13 and dissolved the marriage solemnized between the parties and accordingly passed a decree of divorce, with a direction to Sammer Bhai Patel, Applicant No.1 herein, to pay Rs.1000/- per month as maintenance to Lalita Patel, Non-applicant No.2 herein.

4. Meanwhile, in a Domestic Violence Case No.12 of 2012, as the maintenance amount was not being paid by Applicant No.1, Sammer Bhai Patel to Non-applicant No2, Lalita Patel, a warrant was issued against him vide order dated 23.7.2013. Against the said issuing of warrant, the Applicant No.1, Sammer Bhai Patel, had filed a revision petition, which was registered as Criminal Revision No.59 of 2013, before the Additional Sessions Judge (F.T.C.), Baikunthpur. In the said revision petition, both the parties arrived at a settlement vide written compromise (Exhibit C-1) that if the Revisionist i.e., Applicant No.1, Sammer Bhai Patel, gives a lumpsum amount of Rs.1,25,000/- as maintenance to Lalita Patel (Non-applicant No.2 herein) then she will withdraw all the cases that were initiated by her including the case filed for the offence under Section 498-A IPC before the Judicial Magistrate First Class, Wadrafnagar and accordingly the order dated 2.9.2013 was passed by the the Additional Sessions Judge (F.T.C.), Baikunthpur.

5. Thereafter, it is said that the Non-applicant No.2, Lalita Patel, had appeared before the Court of Judicial Magistrate First Class, Wadrafnagar for permission to compound the offence under Section 498-A/34 IPC and for withdrawal of the said case. However, the said Court refused to compound the offence under Section 498-A/34 IPC, leading to filing of the present petition under Section 482 CrPC.

6. All the Applicants/Accused are present today before this Court. The Non-applicant No.2/Complainant, Lalita Patel, also along with her Counsel is present before the Court.

7. Non-applicant No.2/Complainant, Lalita Patel, has filed a separate affidavit (Annexure P-6) before this Court in respect of the compromise arrived at between the parties stating that the marriage between Non-applicant No.2, Lalita Patel and Applicant No.1, Sammer Bhai Patel, has been dissolved by a decree of divorce dated 31.8.2012 and that she has amicably settled the dispute with the Applicants/Accused in Criminal Revision No. 59 of 2013 before Additional Sessions Judge (F.T.C.), Baikunthpur and that she does not intend to further prosecute the issue i.e., Criminal Case No. 123 of 2010, which is pending before the Judicial Magistrate First Class, Wadrafnagar for the offence under Section 498-A/34 IPC and pray for quashing the same.

8. On a query being put to Non-applicant No.2, Lalita Patel by this Court, she has categorically stated that the dispute has been resolved amicably between the parties and she does not want to prosecute them any further and the matter may be closed once and for all.

9. Learned Counsel for Non-applicant No.2 submits that he has specific instructions that Non-applicant No.2, Lalita Bai, has compromised the dispute between the parties and that she does not want to prosecute the Applicants/Accused any further.

10. Learned Counsel for the State also submits that since the Non-applicant No.2, Lalita Patel, herself does not want to prosecute the Applicants/Accused, the State also does not have any objection if the matter is closed and the offence is permitted to be compounded.

11. In view of the categorical statements made by the Complainant/Non-Applicant No.2, Lalita Patel, this Court is of the opinion that once when the Complainant and the Accused have settled their matter and buried the dispute and differences, it would be an important consideration for the High Court while exercising the powers under Section 482 CrPC to compound the offence.

12. The opinion of this Court stands fortified from the judgment of the Supreme Court in the case of **Gian Singh v. State of Punjab & Another** [2012 (10) SCC 303] and also in the case of **Narinder Singh & Others v. State of Punjab & Another** [2014 (6) SCC 466].

13. Another aspect which has to be borne in mind is that since the parties to the dispute having entered into a settlement and compromised the matter, there is a minimal chance of the Complainant coming forward in support of the prosecution case and the chances of conviction therefore appear to be very remote and it would not be justified to drag these proceedings unnecessarily knowing fully well the final outcome.

14. In view of the statement made by the Complainant/Non-applicant No.2 and keeping in view the law laid down by the Supreme Court in the case of **B. S. Joshi & others v. State of Haryana & Another** [2003 (4) SCC 675] and in the case of **Gian Singh** (*supra*) and **Narinder Singh** (*supra*), this Court is of the opinion that it is a fit case where the parties can be permitted to compound the offence.

15. Accordingly, the petition under Section 482 CrPC is allowed. The consequential proceedings of Criminal Case No. 123 of 2010 pending before the Judicial Magistrate First Class, Wadrafnagar stand quashed and the Applicants No.1, 2, 3 and 4, namely, Sammer Bhai Patel, Ram Lochan Patel, Smt. Kismat Devi and Smt. Pushpa respectively, who are the accused persons in that case, stand discharged from the offence punishable under Section 498-A read with Section 34 of IPC.

/sharad/

Sd/-
(P. Sam Koshy)
Judge