

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRIMINAL MISC. PETITION NO. 808 OF 2016

1. Shrawan Choudhari, S/o Tarachand Choudhari, aged about 67 years
 2. Vikramaditya Choudhari, S/o Shrawan Choudhari, aged 30 years
 3. Ranjeet Choudhari, S/o Shrawan Choudhari, aged about 28 years
- All are R/o Village- Kachandur, Tahsil & District Durg (C.G.)

... Petitioners

Versus

1. State of Chhattisgarh, through Incharge, Mahila Thana, Durg (C.G.)
2. Smt. Anita Singh Choudhari, D/o Vikramaditya Choudhari, aged about 30 years, R/o House No.4-F, Road No.37, Sector-11, Khursipar, Bhilai, District Durg (C.G.)

... Respondents

For Petitioners	:	Mr. S.K. Agrawal, Advocate.
For Respondent No.1	:	Mr. O.P. Sahu, Government Advocate.
For Respondent No.2	:	Mr. Purnendra Kichariya, Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

19/09/2016

1. The present petition under Section 482 of CrPC has been filed by the Petitioners seeking permission of this Court for compounding the offence under Section 498-A/34 of IPC between the accused Petitioners and the complainant Respondent No.2.
2. According to the Petitioners, on a complaint lodged by complainant Respondent No.2 Smt. Anita Singh Choudhari at Mahila Police Station, Durg, an FIR was registered against the Petitioners for the offence under Section 498-A/34 of IPC. The matter thereafter was put to trial before the Court of Judicial Magistrate First Class, Durg vide Criminal Case No.535 of 2010 where the Petitioners stood convicted for the offence under Section 498-A/34 of IPC, vide judgment dated 3.12.2014 of the Trial Court.

3. As per the Petitioners, subsequently they have preferred an appeal against the said judgment of conviction before the Seventh Additional Sessions Judge, Durg vide Criminal Appeal No.322 of 2014. Pending the appeal, the parties to the dispute i.e., the accused Petitioners and the complainant Respondent No.2, have entered into an out of Court settlement and moved an appropriate application in this regard before the Court below for compounding the offence under Section 498-A/34 of IPC. However, the Court below vide its order dated 28.3.2016 refused to grant permission for compounding the offence under Section 498-A of IPC holding it to be non-compoundable offence, which gave rise to the filing of the present petition under Section 482 of CrPC by the Petitioners.

4. Learned Counsel for the Petitioners submits that the disputing parties, i.e., the accused Petitioners and the complainant Respondent No.2, who are also being represented by their lawyers, are also personally present today before this Court. That all of them have decided to settle their dispute once and for all and the complainant Respondent No.2 does not intent to prosecute the Petitioners any further.

5. Learned Counsel appearing for complainant-Respondent No.2-Smt. Anita Singh Choudhari submits that she is also present in the Court and he has specific instructions to make a statement that they have settled the dispute between them and she does not intend to prosecute the Petitioners any further.

6. On a specific query being put to complainant-Respondent No.2-Smt. Anita Singh Choudhari, she makes a categorical statement that since the matter has been compromised with the accused Petitioners she does not want any further prosecution of the Petitioners and wants the appeal which is pending before the Seventh Additional Sessions Judge, Durg i.e., Criminal Appeal No.322 of 2014, to be closed once and for all.

7. Learned Counsel for the State makes a submission that since the parties to dispute have themselves resolved their dispute amicably and the complainant-Respondent No.2 present before this Court is not interested in the conviction and sentence of the accused Petitioners and want the matter to be closed, he does not have any objection.

8. Taking into consideration the statement of complainant-Respondent No.2, 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.

9. 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].

10. Thus, in view of the statement made by complainant-Respondent No.2 and also 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 under Section 498-A/34 of IPC.

11. Accordingly, the present petition under Section 482 of CrPC is allowed. The impugned order dated 28.3.2016 is quashed/set aside and the consequential proceedings of Criminal Appeal No. 322 of 2014 pending before the Seventh Additional Sessions Judge, Durg stand quashed and the accused Petitioners stand discharged from the offence punishable under Section 498-A/34 of IPC.

Sd/-
(P. Sam Koshy)
Judge