

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 1144 of 2016

1. Umashankar Dubey S/o Ramsahay Dubey Aged About 70 Years
2. Smt. Champa Devi W/o Umashankar Dubey Aged About 65 Years

Both R/o Shankar Ward, Bhatapara, Police Station Bhatapara, Town, District Raipur, Chhattisgarh (Now District Baloda Bazar- Bhatapara, Chhattisgarh).

3. Durgesh Dubey, S/o Umashankar Dubey Aged About 34 Years R/o Behind Jeevalmal Hospital, Nayapara Ward, Bhatapara Town, District Raipur, Chhattisgarh. [Now District Baloda Bazar Bhatapara, Chhattisgarh]

---- Petitioners

Versus

1. State Of Chhattisgarh Through Station House Officer, Police Station Bhatapara Town, District Raipur, Chhattisgarh. (Now District Baloda Bazar- Bhatapara, Chhattisgarh).
2. Varsha Dubey D/o Late Kamlesh Sharma Aged About 30 Years R/o New Colony, Gaya Nagar, Tejuram Sinha Gali No. 1, Durg, District Durg, Chhattisgarh.

---- Respondent

For Petitioners	:	Shri A.P. Sharma, along with the petitioners.
For Respondent/State	:	Shri Vivek Sharma, Govt. Advocate.
For Respondent No.2	:	Shri K.K. Dewangan, along with respondent No.2.

Hon'ble Shri Justice Pritinker Diwaker

Order On Board

08/11/2016

Heard on IA No.01/2016, application filed for amendment in the prayer clause of the petition.

02. Not opposed.

03. The application (IA No.01) is allowed. Counsel for the petitioners to

carry out necessary amendment in the petition in the Court itself during the course of the day.

04. According to the parties, marriage of petitioner No.3 was solemnized with respondent No.2 on 6.5.2007 at Durg. Unfortunately, some disputes cropped up between the couple which led to filing of report by respondent No.2 before Police Station - Bhatapara (City) on 18.4.2011, pursuant to which Crime No.113/2011 in relation to offence under Sections 498A/34 of IPC and 4 of Dowry Prohibition Act was registered against the petitioners. The couple lived separately for few months, however, thereafter they realized their mistake and have resolved their disputes amicably by mutual settlement. According to the parties, respondent No.2 is living with the petitioners at Bhatapara since 2013. Petitioner No.3 and respondent No.2 are also having a female child, presently aged about 8 years.

05. After amicable settlement between the parties, they filed an application under Section 320(2) of Cr.P.C. before the Judicial Magistrate First Class, Bhatapara, Distt. Raipur, however, the said application has been rejected by the Court below vide impugned order dated 8.8.2013 on the ground that offence under Section 498 of IPC is non-compoundable.

06. The present petition under Section 482 of Cr.P.C. has been filed by the petitioners for setting aside the order dated 8.8.2013 passed by the Court below rejecting their application under Section 320(2) of Cr.P.C. as also for quashment of the entire criminal proceedings pending against them before the Court of Judicial Magistrate First Class,

Bhatapara in the form of Criminal Case No.2000/2011.

07. On a specific question being put to respondent No.2 by this Court about the authenticity of the averments made in the petition, she has candidly replied that she is living a happy married life with petitioner No.3 in a joint family and is no more interested to prosecute the petitioners in the criminal case.

08. Thus, in the facts and circumstances of the case and also in the light of decisions of the Hon'ble Apex Court in the matters of ***B.S. Joshi and others Vs. State of Haryana and another, (2003) 4 SCC 675*** and ***Gian Singh Vs. State of Punjab and another, (2013) 1 SCC (Cri) 160***, FIR dated 18.4.2011 bearing Crime No.113/2011 registered at Police Station - Bhatapara (City), Distt. Raipur in relation to offence under Sections 498A/34 of IPC and 4 of Dowry Prohibition Act against the petitioners is hereby quashed. Consequently, criminal proceedings pending against the petitioners in the form of Criminal Case No.2000/2011 before the Judicial Magistrate First Class, Bhatapara, Distt. Raipur also stand quashed.

09. In view of above, the instant petition stands disposed of.

Sd/

(Pritinker Diwaker)

Judge