

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 1171 of 2016

1. Mohan Jai Singh S/o Shri Dilip Jai Singh, Aged About 30 Years, R/o 14 Padma Laxmi Apartment, 5th Floor, Savarkar Nagar, Police Station Gangapur, District Nasik, (Maharashtra)
2. Shri Dilip Jai Singh S/o Shri Late Kanhaiya Lal Jai Singh Aged About 57 Years,
3. Smt. Manisha Jai Singh W/o Shri Dilip Jai Singh Aged About 51 Years,
4. Abhay Jai Singh S/o Shri Dilip Jai Singh, Aged About 25 Years,

All R/o 14 Padma Laxmi Apartment, 5th Floor, Sawarkar Nagar, Police Station Gangapur, District Nasik, (Maharashtra)

---- Petitioners

Versus

1. State of Chhattisgarh, Through Station House Officer, Police Station- City Kotwali, Dhamtari, Chhattisgarh.
2. Smt. Urmal Jai Singh, W/o Shri Mohan Jai Singh, Aged About 26 Years, Presently Residing At Balak Chowk, Dhamtari, District Dhamtari, Chhattisgarh.

---- Respondents

09/12/2016	Smt. Fouzia Mirza, counsel for the petitioners. Shri Sameer Behar, Panel Lawyer for the State. Shri Sunil Otwani, counsel for the respondent No.2. Petitioners and respondent No. 2 are present. Counsel for the petitioners submits that on the basis of FIR lodged by respondent No. 2 petitioners are being prosecuted under Section 498 A/34 of IPC before the Court of Chief Judicial Magistrate, Dhamtari, it has been case relating to matrimonial dispute which has been compromised between the parties following which one application for compounding of	

offence was presented before the trial Court, which has been rejected vide order dated 09/09/2016 (Annexure P/1). As an outcome of this compromise the husband petitioner No.1 and wife respondent No.2 have filed an application under Section 13 B of Hindu Marriage Act before the Principal Judge, Family Court, Dhamtari seeking divorce on mutual consent. On this background of the compromise between the parties, petition under Section 482 of the CrPC has been filed before this Court and separately application for grant of interim relief has also been presented. It is submitted that the parties are present before the Court, the original petition may be decided and disposed of today itself.

Shri Otwani, counsel for the respondent No. 2 submits that his party respondent No. 2 is present in the Court, supporting the submission of counsel for applicant, he submits that Court can satisfy itself by questioning the parties present in the Court and dispose of the petition finally.

Applicants and respondent No. 2 have responded to queries by the Court, that they have entered into a compromise and for this reason they are seeking the quashment of the criminal proceeding against the applicants by a lawful order. On the basis of submission above, the original petition under Section 482 of CrPC is dealt with.

This petition under Section 482 of CrPC is brought with a prayer to quash the criminal proceeding registered as Crime

No. 245/2016 by Police Station, City Kotwali, District Dhamtari for offence under Section 498 A/34 of IPC against the applicants.

It is submitted that applicants have entered into compromise to terminate all the disputes between them, following which one application under Section 13 B of Hindu Marriage Act has been separately filed and one application was filed before the Court of Chief Judicial Magistrate, Dhamtari in Criminal Case No. 836/16 by order dated 09/09/2016 the trial Court has rejected the application on the ground that offence is not compoundable under the provisions of CrPC.

Reliance has been placed on the judgment of Apex Court in **B.S. Joshi & Others v. State of Haryana & Another, 2003 (4) SCC 675** in which it was held that High Court can quash the criminal proceeding or FIR or complaint Section 320 of CrPC does not limits or affects the power under Section 482 of CrPC, High Court can take into consideration any special features which appear in a particular case to consider whether it is expedient and in the interest of justice to permit a prosecution to continue.

Further reliance has been placed on the judgment of Apex Court in **Gian Singh v State Of Punjab & Another, 2012 (10) SCC 303** in which Apex Court has held that High Courts are empowered to exercise inherent jurisdiction in circumstances when the compounding of offence is not legally

entertained by the trial court for the simple reason that the offence is not compoundable under Section 320 of the CrPC.

As per the submission of the counsels from both the parties and the statement of the parties in person, it is clear that the disputes between the parties have been amicably settled and in view of the law laid down by the Apex Court, this Court is of the opinion, that it is a fit case where the criminal case pending against the applicants should be quashed by exercising the powers under Section 482 of CrPC.

On the basis of reasons mentioned above, this petition is allowed. The criminal proceeding against the applicants in Criminal Case No. 836/16 before the Chief Judicial Magistrate, Dhamtari is quashed arising out of Crime No. 245/16 registered at Police Station City Kotwali, Dhamtari. Applicants are discharged from the offence registered against them.

Sd/-
(Rajendra Chandra Singh Samant)
Judge