

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 1002 of 2014**

1. Smt.Nirmal Anand D/o Late Fatehchand Anand Aged About 72 Years R/o Link Road, Camp-II, Ps Chhawani, Tah. And Distt. Durg C.G.
2. Smt. Alakhnanda Suneja (wrongly typed in order as Alka Suneja) W/o Manish Suneja Aged About 31 Years
3. Manish Suneja S/o Dr. H.B. Suneja Aged About 40 Years R/o Madhuban Colony Chatkar Road (wrongly typed Sarkular as Chatkar), Infront Of S.P. Bunglow Chhindwada (M.P.).

---- **Petitioners****Versus**

1. State of Chhattisgarh Through The Station In-Charge, Ps Mahila Thana Durg C.G.
2. Smt. Beena Sahgal (Khirwat) Wd/o Late Shri Subhash Sahgal (Lati) Aged About 50 Years R/o Sector-4, Sadak No. 23, Qtr. No. 3, Bhilai Nagar, Tah. And Distt. Durg C.G.

---- **Respondents**

For Petitioners	:	Shri H.B. Agrawal, Sr. Adv. with Ms. Meera Jaiswal, Advocate
For Respondent-State	:	Shri S.K. Mishra, PL for the State

Hon'ble Shri Justice Goutam Bhaduri**Order On Board****25/10/2017**

1. Heard.
2. This petition is against the order dated 08.05.2014, passed in criminal case No.656/2013, by the JMFC, Durg wherein an application under Section 320 of the Cr.P.C. to compound the offence under Section 498-A of the I.P.C. has been dismissed.

3. Learned counsel for the petitioners would submit that a compromise has been effected between the parties and an agreement (Ikrarnama/Samjhota Patrak) was executed in between Smt. Nirmal Anand, Smt. Beena Sahgal & Smt. Alakhnanda Suneja and the parties have agreed to abide by the terms of compromise. Consequently, the compromise has been effected consequently the victim/complainant do not want to prosecute this case further, therefore, proceedings which are pending before the Court below in criminal case No.656/2013 pending before the JMFC, Durg may be quashed.
4. Perusal of the record would show that an agreement (Ikrarnama/Samjhota Patrak) has been placed on record, which is executed in between Smt. Nirmal Anand, Smt. Beena Sahgal & Smt. Alakhnanda Suneja, wherein the complainant and the parties to the deed have agreed on certain terms. The statement of Smt. Beena Sahgal was recorded before the Additional Registrar (Judicial), wherein she has stated that she had made a report under Section 498-A of the I.P.C. and on such report charge-sheet was filed against the petitioners in a criminal case No.656/2013. The statement further records that a reference has been made to the agreement dated 01.05.2014, which is also part of this petition and after that agreement she do not want to prosecute any further action against the petitioners consequent to the agreement. It is further stated that the agreement has been executed without any fear, favour or undue influence, therefore, on the basis of the agreement, the victim do not want to further prosecute the case against the petitioners in criminal case No.656/2013, pending before the JMFC, Durg.
5. The Hon'ble Supreme Court in **Gian Singh v. State of Punjab & Another**¹ has laid down the following principles :

“61. The position that emerges from the above

¹ (2012) 10 SCC 303

discussion can be summarised thus: the power of the High Court in quashing a criminal proceeding or FIR or complaint in exercise of its inherent jurisdiction is distinct and different from the power given to a criminal court for compounding the offences under Section 320 of the Code. Inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accord with the guideline engrafted in such power viz; (i) to secure the ends of justice or (ii) to prevent abuse of the process of any Court. In what cases power to quash the criminal proceeding or complaint or F.I.R may be exercised where the offender and victim have settled their dispute would depend on the facts and circumstances of each case and no category can be prescribed. However, before exercise of such power, the High Court must have due regard to the nature and gravity of the crime. Heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. cannot be fittingly quashed even though the victim or victim's family and the offender have settled the dispute. Such offences are not private in nature and have serious impact on society. Similarly, any compromise between the victim and offender in relation to the offences under special statutes like Prevention of Corruption Act or the offences committed by public servants while working in that capacity etc; cannot provide for any basis for quashing criminal proceedings involving such offences. But the criminal cases having overwhelmingly and predominatingly civil flavour stand on different footing for the purposes of quashing, particularly the offences arising from commercial, financial, mercantile, civil, partnership or such like transactions or the offences arising out of matrimony relating to dowry, etc. or the family disputes where the wrong is basically private or personal in nature and the parties have resolved their entire dispute. In this category of cases, High Court may quash criminal proceedings if in its view, because of the compromise between the offender and victim, the possibility of conviction is remote and bleak and continuation of criminal case would put accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case despite full and complete settlement and compromise with the victim. In other words, the High Court must consider whether it would be unfair or contrary to the interest of justice to continue with the criminal proceeding or continuation of the criminal proceeding would tantamount to abuse of process of law despite settlement and compromise between the victim and wrongdoer and whether to

secure the ends of justice, it is appropriate that criminal case is put to an end and if the answer to the above question(s) is in affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding.

62. In view of the above, it cannot be said that B.S. Joshi, Nikhil Merchant and Manoj Sharma were not correctly decided. We answer the reference accordingly. Let these matters be now listed before the Bench(es) concerned”

6. The Hon'ble Supreme Court in ***B.S. Joshi & Ors. v. State of Haryana & Anr.***² has held as under :

“14. There is no doubt that the object of introducing Chapter XX-A containing Section 498A in the Indian Penal Code was to prevent the torture to a woman by her husband or by relatives of her husband. Section 498A was added with a view to punishing a husband and his relatives who harass or torture the wife to coerce her or her relatives to satisfy unlawful demands of dowry. The hyper-technical view would be counter productive and would act against interests of women and against the object for which this provision was added. There is every likelihood that non-exercise of inherent power to quash the proceedings to meet the ends of justice would prevent women from settling earlier. That is not the object of Chapter XXA of Indian Penal Code.

15. In view of the above discussion, we hold that the High Court in exercise of its inherent powers can quash criminal proceedings or FIR or complaint and Section 320 of the Code does not limit or affect the powers under Section 482 of the Code.”

7. The principles laid down by the Supreme Court clearly leads to an irresistible conclusion that a dispute which arise out of a matrimonial nature where the wrong is basically private or personal in nature and parties have resolved their entire dispute, the High Court may quash the criminal proceedings. If the High Court finds it to be unfair and contrary to the interest of justice to continue with the criminal proceeding despite settlement and compromise between the victim and the wrongdoer and make put to an

2 (2003) 4 SCC 675

end to the criminal case.

8. In the instant case Smt. Beena Sahgal, the complainant, has compounded the offence and the reference to the agreement has also been made that certain obligations has to be performed by the parties and on that basis, the parties have entered into agreement and on the basis of the agreement it has been stated by the victim that she do not want to prosecute her case against the petitioners under Section 498-A of the I.P.C.
9. Taking into consideration such fact and in view of the fact that the parties have amicably settled the issue and the victim do not want to further prosecute the appeal under Section 498-A of the I.P.C., the proceedings before the trial Court in criminal case No.656/2013 (**State of C.G. Vs. Smt.Nirmal Anand & ors.**) are quashed. The petitioners are acquitted of the charges under Section 498-A of the I.P.C. leveled against them
10. Accordingly, the CRMP stands allowed.

Sd/-

Goutam Bhaduri
Judge

Ashu