

HIGH COURT OF CHHATTISGARH, BILASPUR**WPCR No. 98 of 2017**

1. Asha Agrawal D/o Ashok Agrawal, Aged About 29 Years R/o Joshi Street, Kotra Road, Raigarh, District Raigarh (Chhattisgarh).
2. Ashok Agrawal, S/o Nand Kishor Agrawal, Aged About 55 Years R/o Joshi Street, Kotra Road, Raigarh, District Raigarh (Chhattisgarh).

---- Petitioners**Versus**

1. Jayant Saraf S/o Shri Kamal Saraf, Aged About 27 Years R/o Kranti Nagar, Near Jain Mandir Bilaspur, Tahsil & District Bilaspur (Chhattisgarh).
2. S. H. O. Tarbahar, Bilaspur, District Bilaspur (Chhattisgarh).

---- Respondents

For Petitioners	:	Shri Ravindra Sharma, Advocate.
For Respondent No.1	:	Shri Manoj Paranjpe, Advocate.
For Respondent No.2/State	:	Shri Lav Sharma, Panel Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**Order On Board****28/08/2017**

Heard.

1. **Admit.**
2. Facts of the case, in brief, are that on 9.7.2015 a report against the petitioners was lodged by respondent No.1 in Police Station Tarbahar, Bilaspur alleging in it that petitioners while negotiating for marriage of petitioner No.1 with respondent No.1, suppressed the fact that petitioner No.1 was one year older than respondent No.1 and to make believe this suppressed fact, they produced a forged horoscope of petitioner No.1. Matrimonial relationship between petitioner No.1 & respondent No.1 could not be finalised and consequently, on coming to know about this

suppressed fact, a complaint was made by respondent No.1 based on which offence under Sections 420, 467, 468 & 471/34 of Indian Penal Code (for short 'IPC') has been registered against the petitioners by Police Station Tarbahar, Bilaspur.

3. It is submitted by counsel for the petitioners that petition under Article 226 of Constitution of India has been brought with a prayer to quash the FIR registered against them on the ground that a compromise has been arrived at between petitioners and respondent No.1 under which it is mutually agreed between the parties that they will withdraw cases filed / pending between the parties on the basis of mutual agreement. Therefore, it is prayed that the petition be allowed and the FIR lodged at Police Station Tarbahar, Bilaspur under Sections 420, 467, 468, 471/34 IPC be quashed.
4. Learned counsel for respondent No.1 submits that respondent No.1 has amicably settled the disputes with the petitioners as stated above and that she has no objection in the quashment of FIR registered against the petitioners.
5. Learned counsel for the State has opposed the petition and the submissions made by counsel for petitioner and respondent No.1. It is submitted that statute does not permit composition of the case against the petitioners and therefore the petition may be dismissed.
6. Heard both the parties and perused the material on record.
7. Statements of respondent No.1 and petitioners have been recorded by the Registry of this Court. Respondent No.1-complainant has stated on oath that he and the petitioners have entered into a compromise and on

the basis of said compromises, he wants to close the criminal case pending against the petitioners. He has further stated that he has entered into the compromise with his free consent and without any fear, favour or undue influence.

8. Considering the nature of allegations made by the complainant and that the case is arisen out of a matrimonial dispute, where it is usual for the parties to suppress facts so that the negotiation succeeds and the matrimonial relationship is established. 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 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

1. (2012) 10 SCC 303

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 favour 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.

9. Considering that both the parties have entered into compromise voluntarily and without any fear or favour, and one of the conditions of the said compromise is that the parties shall withdraw all the cases

pending against each other including the instant case, in view of the judgment of Gian Chand (supra), this Court is of the opinion that it is a fit case where jurisdiction under Section 482 of Cr.P.C. should be exercised.

10. Accordingly, the petition is allowed and FIR No.176/2015 registered against the petitioners at Police Station Tarbahar, Bilaspur is hereby quashed.

Sd/-
(**Rajendra Chandra Singh Samant**)
JUDGE