

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 91 of 2017**

1. Jayant Saraf S/o Kamal Saraf Aged About 28 Years R/o Kranti Nagar, Near Jain Mandir, Bilaspur, Police Station Tarbahar, District Bilaspur, Chhattisgarh.
2. Kamal Saraf S/o Narmada Prasad Saraf Aged About 60 Years R/o Kranti Nagar, Near Jain Mandir, Bilaspur, Police Station Tarbahar, District Bilaspur, Chhattisgarh.
3. Ranju Saraf W/o Kamal Saraf Aged About 57 Years (Wrongly Typed Rejo Saraf), R/o Kranti Nagar, Near Jain Mandir, Bilaspur, Police Station Tarbahar, District Bilaspur, Chhattisgarh.
4. Rahul Saraf S/o Kamal Saraf Aged About 33 Years R/o Kranti Nagar, Near Jain Mandir, Bilaspur, Police Station Tarbahar, District Bilaspur, Chhattisgarh.
5. Riddhi Saraf W/o Rahul Saraf Aged About 33 Years (Wrongly Typed As Yashwant Saraf), R/o Kranti Nagar, Near Jain Mandir, Bilaspur, Police Station Tarbahar, District Bilaspur, Chhattisgarh.
6. Yashwant Saraf S/o Kamal Saraf Aged About 30 Years R/o Kranti Nagar, Near Jain Mandir, Bilaspur, Police Station Tarbahar, District Bilaspur, Chhattisgarh.
7. Smt. Nupur Saraf W/o Yashwant Saraf Aged About 28 Years R/o Kranti Nagar, Near Jain Mandir, Bilaspur, Police Station Tarbahar, District Bilaspur, Chhattisgarh.
8. Pramod Goyal S/o Dhaniram Goyal Aged About 59 Years R/o Totachhap Gudakhu, Gaddi Chowk, Raigarh, District Raigarh, Chhattisgarh.

---- Petitioners**Versus**

1. Asha Agrawal W/o Jayant Saraf Aged About 30 Years D/o Ashok Agrawal, R/o Joshi Lane, Raigarh, District Raigarh, Chhattisgarh.
2. State Of Chhattisgarh Through Police Station Kotwali, Raigarh, District Raigarh, Chhattisgarh.

---- Respondents

For Petitioners : Shri Manoj Paranjpe, Advocate.

For Respondent No.1 : Shri Ravindra Sharma, 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. This petition under Section 482 of Cr.P.C. has been brought with a prayer to quash the criminal proceeding which is pending before the Judicial Magistrate First Class, Raigarh against the petitioners.
2. It is submitted that petitioners and respondent No.1 have amicably settled their dispute by arriving at a compromise wherein both the parties have agreed to withdraw criminal proceeding pending against the petitioners herein and accordingly, an application under Section 320 of Cr.P.C. was filed before the trial Court, which was rejected on the ground that the trial Court has no jurisdiction to quash the proceedings because the offence under Section 498-A of Indian Penal Code (for short 'IPC') is not compoundable. Hence, this petition.
3. Learned counsel for respondent No.1 submits that respondent No.1 has given his consent to compound the case, hence, the criminal proceedings against the petitioners be quashed.
4. Learned counsel for the State has opposed the petition and submitted that as the statute does not permit, hence, petitioners are not entitled for any relief.
5. Heard and perused.
6. Respondent No.1, complainant of the case, lodged FIR against the petitioners on the basis of which petitioners are being prosecuted for the offence under Section 498-A read with Section 34 of IPC and Sections 3 and 4 of Dowry Prohibition Act, 1961. As per submissions made, respondent No.1/complainant has arrived at a compromise with the petitioners, and according to the terms of compromise, she has prayed before the trial Court for withdrawal of the case against the petitioners

which has been refused and as an outcome of compromise, respondent No.1 has obtained a decree of divorce from the Family Court on the basis of application jointly filed by them seeking divorce on mutual consent. Statement of complainant / respondent No.1 has been recorded by the Registry of this Court, wherein she has stated on oath about the terms of compromise and that she had consented for compromise without any fear, favour or influence. Hence, she wishes that the criminal proceedings against the petitioners be withdrawn.

7. Consequent to above developments, it appears that the fate of criminal case is already decided and therefore continuation of such criminal proceeding against the petitioners would amount to abuse of process of law. 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 accordance with the guidelines 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

1. (2012) 10 SCC 303

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 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."

8. Keeping in mind the law laid down by the Hon'ble Supreme Court in Gian Singh' case (supra), this Court is of the view that present is a fit case in which inherent jurisdiction under Section 482 of Cr.P.C. can be exercised to quash the criminal proceeding pending against the petitioners.
9. Accordingly, the petition is allowed at the motion stage itself. The criminal proceeding pending against the petitioners before the Court of Judicial Magistrate First Class, Raigarh in the form of Criminal Case No.10/2015 (State Vs. Jayant Saraf and others) is hereby quashed.
10. Parties are directed to comply with the terms of compromise.
11. The petition is, accordingly disposed off.

Sd/-
(Rajendra Chandra Singh Samant)
JUDGE