

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 732 of 2013

1. Smt. Rajinder Kaur W/o Shri Gurdeep Singh Aged About 51 Years R/o 382, Subhash Mahal, Near S.B.I. Bank, Sadar Bazar, Ps Cantt, Civil And Rev. Distt. - Lucknow, Uttar Pradesh
2. Smt. Jitender Kaur W/o Shri Tejpal Singh Aged About 43 Years R/o 382 Subhash Mahal, Near Sbi Bank, Sadar Bazar, Ps - Cantt, Distt. Lucknow (U.P.)
3. Gurdeep Singh Hora S/o Late Shri Sardar Malik Singh Aged About 53 Years R/o 382 Subhash Mahal, Near Sbi Bank, Sadar Bazar, Ps - Cantt, Distt. Lucknow (U.P.)
4. Harshdeep Singh S/o Gurdeep Singh Hora Aged About 26 Years R/o 382 Subhash Mahal, Near Sbi Bank, Sadar Bazar, Ps - Cantt, Distt. Lucknow (U.P.)

---- Petitioners

Versus

1. State Of Chhattisgarh Through The P.S. Kotwali Bilaspur, Distt. Bilaspur C.G.
2. Smt. Guneesh Kaur D/o Manjeet Singh Aged About 24 Years R/o Behind Syndicate Bank, Dayal Band, Bilaspur, Distt. Bilaspur C.G.

---- Respondents

For Petitioner	:	Shri Sanjay Agrawal, Advocate.
For Respondent No.1/State	:	Shri Anil S. Pandey, Govt. Advocate.
For Respondent No.2.	:	Shri Devesh G. Kela, Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

01/08/2017

Heard.

1. **Admit.**
2. This petition has been brought under Section 482 of Cr.P.C. with a prayer to exercise inherent jurisdiction for quashing the proceedings against the

petitioners initiated on the basis of FIR No.51/2012 under Sections 498(A) and 507/34 of Indian Penal Code (for short 'IPC'), pending before the Court of Judicial Magistrate First Class, Bilaspur in Criminal Case No.128/2013.

3. Learned counsel for the petitioner submits that the case against the petitioner was initiated on the basis of the FIR lodged by respondent No.2, who is the wife of petitioner No.4. It being a matrimonial dispute, the parties entered into the compromise and resolved that dispute amicably and it was agreed between them that the criminal case filed against the petitioner shall be withdrawn by the respondent No.2. For this purpose, an application under Section 320(2) of Cr.P.C. was filed before the trial Court which was partly allowed and the petitioners were acquitted of the charges under Section 506 Part-II of IPC, on the basis of compromise whereas the application for compounding the offence under Section 498 (A) of IPC was rejected, as it is not compoundable. Hence, this petition.
4. The prayer in this petition is for exercising the inherent jurisdiction of High Court, on the basis of composition between the parties. By orders of this Court, the statement of respondent No.2/complainant in this case has been recorded in which she has stated that disputes are amicably resolved and she is giving consent for compromise without any fear, favour and influence and has no objection from withdrawal of the criminal case against the petitioners.
5. Petitioner No.4 and respondent No.2 have also obtained a decree of divorce by mutual consent from the competent Family Court, hence, looking to the situation at present and the statement a consent given by the complainant/respondent No.2, it was served no purpose if the case is allowed to continue against the petitioner which is certainly going to result in acquittal on account of hostility of the witnesses which would be in another way abuse of the process of law.

6. 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 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 pre-dominantly 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.

7. In view of above, the petition is allowed. The proceedings against the petitioners in Criminal Case No.128/2013 is pending before the Court of Judicial Magistrate

1. (2012) 10 SCC 303

First Class, Bilaspur, is hereby quashed.

8. Accordingly, this petition stands disposed off at the motion stage.

Sd/-

(Rajendra Chandra Singh Samant)
JUDGE

Nisha