

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CR.M.P. No. 160 of 2017

1. Dwarika Prasad, S/o. Vishnu Ram Verma, Aged About 34 Years,
2. Santosh Kumar, S/o. Vishnu Ram Verma, Aged About 30 Years,
Both R/o. Mohara (Mudiya), Police Station- Dongargarh, District-
Rajnandgaon, Chhattisgarh

---- Petitioners

Versus

1. State Of Chhattisgarh, Through : Station House Officer, Police Station-
Civil Lines, Raipur, District- Raipur, Chhattisgarh
2. Smt. Vijay Lalita Verma, W/o. Shri Dwarika Prasad Verma, Aged About
29 Years, R/o. Laxmi Nagar, Rajendra Chowk, Supela, Bhilai, District-
Durg, Chhattisgarh

-----Respondents

For Petitioners : Mrs. Fouzia Mirza, Advocate

For Respondent No.1/State : Mr. Anil S. Pandey, Govt. Advocate

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

30/06/2017

Heard.

1. This petition has been filed under Section 482 of Cr.P.C. with a prayer to quash the entire criminal proceedings against the petitioners initiated on the basis of the complaint made by the respondent No.2 under Section 498-A of the Indian Penal Code in Crime No.147/2012, registered at Police Station – Civil Lines, Raipur in Criminal Case No.806/2013 pending before the Court of Judicial Magistrate First Class, Raipur.

2. An application under Section 320 of Cr.P.C. was moved before the trial Court, which has been rejected vide order dated 22.12.2015 on the ground that section 320 of Cr.P.C. does not permit composition of offence under Section 498-A of Indian Penal Code.
3. Separate application has been filed before this Court for compounding of offence by the petitioners and the respondent No.2 on 30.01.2017 along with petition under Section 482 of Cr.P.C. It was stated that respondent No.2 is residing with petitioners and all the disputes have been resolved. Further respondent No.2 recently delivered a child out of the wedlock with petitioner No.1.
4. By order of this Court, statements of the petitioners and the respondent No.2 have been recorded by the Registry of this Court. Respondent No.2/complainant in the criminal case has submitted that she has willingly and independently consented for compromise without any fear and favour or influence and she is continuously residing with her husband, the petitioner No.1 and is leading happy marital life with him, hence she does not wish to continue with the criminal case against the petitioners.
5. The Hon'ble Supreme Court in ***Gian Singh v. State of Punjab & Another¹*** 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

1. (2012) 10 SCC 303

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 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.

6. Looking to the facts and circumstances of this case and further looking to the fact that the petitioner No.1 and respondent No.2 are living peacefully, leading happy matrimonial life and the dispute between them has been resolved. Therefore, considering the facts of this case, it would be in the interest of justice to quash the proceeding of Criminal Case No.806/2013, pending before the Judicial Magistrate First Class, Raipur, District – Raipur (C.G.) arising out of Crime No.147/2012.
7. In the result, proceedings of Criminal Case No. 806/2013, arising out of the Crime No.147/2012, pending before Judicial Magistrate First Class, Raipur, District – Raipur is quashed. Petitioners are acquitted of the charges.
8. Accordingly, the petition stands allowed.

Sd/-
(Rajendra Chandra Singh Samant)
Judge