

HIGH COURT OF CHHATTISGARH, BILASPUR**Cr.M.P. No.305 of 2017**

1. Ramesh Kumar, son of Har Prasad, aged about 40 years,
2. Har Prasad, son of late Balaram, aged about 65 years,
3. Heera Bai, wife of Har Prasad, aged about 60 years,
4. Sunita Bai, wife of Rajesh Kumar, aged about 35 years,

All are of Caste Sahu, Resident – Akhrabhatha, Ward No.10, Sakti,
District Janjgir-Champa (Chhattisgarh)

---- **Petitioners**

versus

1. State of Chhattisgarh, through the Station House Officer, Police Station Sakti, District Janjgir-Champa (Chhattisgarh)
2. Smt. Pramila Sahu, wife of Ramesh Kumar, aged about 32 years, resident of Akhrabhatha, Ward No.10, Sakti, District Janjgir-Champa (Chhattisgarh) (Complainant)

--- **Respondents**

For Petitioners	:	Shri K.K. Pandey, Advocate
For State/Respondent No.1	:	Smt. Smita Ghai, Panel Lawyer
For Respondent No.2	:	Shri G.P. Mathur, Advocate

Hon'ble Shri Justice Anil Kumar Shukla

ORDER

17.3.2017

1. The Petitioners have filed the instant petition under Section 482 of the Code of Criminal Procedure for quashment of the criminal proceedings pending before the Judicial Magistrate First Class, Sakti, District Janjgir-Champa registered as Criminal Case No.322 of 2013.
2. The facts of the case, in brief, are that Petitioner No.1, Ramesh Kumar is the husband of Respondent No.2, Smt. Pramila Sahu and Petitioners No.2 to 4 are father-in-law, mother-in-law and sister-in-law of Respondent No.2, Smt. Pramila Sahu. The relationship

between Ramesh Kumar and Smt. Pramila Sahu was cordial after their marriage. Thereafter, Smt. Pramila Sahu filed a written complaint before Police Station Sakti, District Janjgir-Champa against the Petitioners. Police Station Sakti registered a crime against the Petitioners under Sections 498-A, 323 read with Section 34 of the Indian Penal Code. After completion of the investigation into the crime, the police filed a charge-sheet for an offence punishable under Sections 498-A, 323 read with Section 34 of the Indian Penal Code against the Petitioners before the Court of Judicial Magistrate First Class, Sakti, which was registered as Criminal Case No.322 of 2013. After some time, the relationship between Respondent No.2, Smt. Pramila Sahu and the Petitioners became cordial. Therefore, Petitioner No.2, Har Prasad filed an application before the Court of Judicial Magistrate First Class, Sakti under Section 320(2) Cr.P.C. for compounding of the offences. The Judicial Magistrate First Class, Sakti allowed the application on 11.4.2016 so far as it related to prayer for compounding the offence under Section 323 read with Section 34 IPC, but disallowed the application so far as it related to prayer for compounding the offence under Section 498-A IPC because the offence under Section 498-A IPC is not compoundable. Therefore, the Petitioners have filed the instant petition under Section 482 Cr.P.C. for quashment of the criminal proceedings initiated against them in Criminal Case No.322 of 2013 pending before the Judicial Magistrate First Class, Sakti for the offence under Section 498-A IPC on the ground of amicable settlement between the parties.

3. I have heard Learned Counsel appearing for the parties and perused the material available before this Court.

4. It is evident that as a consequence of the compounding of offence under Section 323 read with Section 34 IPC between Respondent No.2, Smt. Pramila Sahu and the Petitioners before the Judicial Magistrate First Class, Sakti, the Petitioners have been acquitted of the charge framed under Section 323 read with Section 34 IPC.
5. Petitioner No.1, Ramesh Kumar and Respondent No.2, Smt. Pramila Sahu have filed their affidavits in support of the instant petition under Section 482 Cr.P.C. It is stated in their affidavits that they are again living together as husband and wife.
6. Learned Counsel appearing for the Petitioners submits that although the offence under Section 498-A of the Indian Penal Code is not compoundable yet in the light of the dictum in **B.S. Joshi v. State of Haryana, (2003) 4 SCC 675**, the proceedings before the Court below can be quashed. Learned Counsel placing reliance upon the judgment in **B.S. Joshi case** (supra) submits that though in accordance with the provisions of Section 320 of the Code of Criminal Procedure, the offence under Section 498-A of the Indian Penal Code is non-compoundable in nature yet the criminal proceedings initiated for the offence punishable under this section can be quashed by exercising jurisdiction under Section 482 of the Code of Criminal Procedure. The relevant portion of the said judgment is extracted below:

“14. There is no doubt that the object of introducing Chapter XX-A containing Section 498-A in the Indian Penal Code was to prevent torture to a woman by her husband or by relatives of her husband. Section 498-A was added with a view to

punishing a husband and his relatives who harass or torture the wife to coerce her or her relative to satisfy unlawful demands of dowry. The hypertechnical view would be counterproductive 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 XX-A of the 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. Learned Counsel appearing for the Petitioners also placed reliance on **Rajiv Saxena v. State (NCT of Delhi), (2012) 5 SCC 627** and submitted that in exercise of power under Section 482 of the Code of Criminal Procedure proceedings under Section 498-A of the Indian Penal Code pending before the Trial Court can be quashed on the basis of amicable settlement between the parties.
8. Thus, according to the above cited decisions of the Apex Court, it is the duty of the Court to encourage genuine settlements of matrimonial disputes and the provisions of Section 320 of the Code of Criminal Procedure do not limit or affect the powers under Section 482 of the Code of Criminal Procedure.
9. In view of the aforesaid pronouncements of the Apex Court and the fact that Complainant/Respondent No.2, Smt. Pramila Sahu and

the Petitioners have amicably settled their disputes without pressure or fear, it would be in the interests of justice to allow the instant petition under Section 482 Cr.P.C. and quash the criminal proceedings pending before the Judicial Magistrate First Class, Sakti, District Janjgir–Champa registered as Criminal Case No.322 of 2013.

- 10.** Consequently, the instant criminal miscellaneous petition is allowed and the criminal proceedings pending before the Judicial Magistrate First Class, Sakti, District Janjgir–Champa are quashed. The Petitioners are acquitted of the charge framed under Section 498-A of the Indian Penal Code.

Sd/-
(Anil Kumar Shukla)
JUDGE