

HIGH COURT OF CHHATTISGARH, BILASPUR
Cr.M.P.No.392 of 2017

Anjali Gupta W/o Umesh Gupta, aged about 25 years, Occupation House wife, R/o Village Kersai, Police Station Tapkara, District (Revenue & Civil), Jashpur (CG) Presently residing at Mayapur, Police Station Ambikapur, District (Revenue & Civil), Surguja (CG)

---- Petitioners

Versus

1. Balram Gupta S/o Late Hariprasad Gupga, aged about 62 years,
2. Sanjay Kumar Gupta S/o Balram Gupta, aged about 40 years,
3. Ajay Gupta, S/o Balram Gupta, aged about 37 years,
Respondent No.1 to 3 R/o Village Kersai, Police Station - Tapkara, District (Revenue & Civil), Jashpur (CG)
4. Pradeep Gupta S/o Virju Prasad Gupta, aged about 32 years,
R/o Village Vatvahi, Raghunathpur, Police Station Lundra, District (Revenue & Civil), Surguja (CG)
5. Smt.Rinki Gupta W/o Subhash Gupta, aged about 30 years,
6. Smt.Meena Gupta W/o Ajay Gupta, aged about 34 years,
Respondent No.5 and 6 R/o Village Kersai, Police Station - Tapkara, District (Revenue & Civil), Jashpur (CG)
7. Smt.Urmila Gupta W/o Pradip Gupta, aged about 30 years,
R/o Village Raghunathpur, Police Station Lundra, District (Revenue & Civil), Surguja (CG)
8. Umesh Gupta S/o Balram Gupta, aged about 30 years, R/o Village Kersai, Police Station - Tapkara, District (Revenue & Civil), Jashpur (CG)
9. State of C.G. through P.S. Ambikapur Surguja

---Respondents

For Petitioner	:	Mr.S.D. Singh, Advocate
For Res.No.1 to 8	:	Mr.Jitendra Shrivastava, Advocate
For State	:	Mr.Majid Ali, P.L.

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

21/6/2017

Heard.

- 1.** This petition is against the order dated 26.11.2016 passed by the Judicial Magistrate First Class, Ambikapur in Criminal Case No.166 of 2015 (State of Chhattisgarh Vs. Balram Gupta and others) by which the application filed by the parties for compounding the offence under Section 320 (1) of the CrPC has been rejected holding that offence under Section 498A of the IPC is not compoundable.
- 2.** Facts of the case are that F.I.R. was lodged by the petitioner against respondents No.1 to 8 alleging that they are treating her with cruelty and demanding dowry, pursuant to which, Crime No.13/2014 was registered at Police Station Mahila Thana-Ambikapur, District Surguja for commission of offence under Section 498A/34 of the IPC and Sections 3 & 4 of the Dowry Prohibition Act and they were charge-sheeted before the jurisdictional Criminal Court.
- 3.** During pendency of the criminal case, both the parties have filed an application under Section 320 (1) of the CrPC for compounding the offence stating inter-alia that in the meanwhile the parties have compromised the matter and now the petitioner and respondent No.8 are residing separately. The said application was dismissed by the trial Court holding that offence under Section 498A of the IPC is not compoundable and therefore, the Court has no jurisdiction to direct for compounding of the offence.
- 4.** Learned counsel for the petitioner would submit that the petitioner is not ready and willing to reside with respondent No.8/her husband and as such, the matter has been

compromised. Therefore, the criminal case pending before the Judicial Magistrate First Class, Ambikapur be quashed.

5. As per direction of this Court, statements of the petitioner and respondents No.1 to 8 have been recorded in which they have stated that they have compromised the matter without fear or favour.

6. The 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 flavour stand on different footing for the purposes of quashing, particularly the offences arising from

1. (2012) 10 SCC 303

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.

62. In view of the above, it cannot be said that *B.S. Joshi, Nikhil Merchant and Manoj Sharma* were not correctly decided. We answer the reference accordingly. Let these matters be now listed before the Bench(es) concerned.”

7. The Supreme Court in **B.S.Joshi & Ors. v. State of Haryana & Anr.**² has held as under :

“14. There is no doubt that the object of introducing Chapter XX-A containing Section 498A in the Indian Penal Code was to prevent the torture to a woman by her husband or by relatives of her husband. Section 498A was added with a view to punishing a husband and his relatives who harass or torture the wife to coerce her or her relatives to satisfy unlawful demands of dowry. The hyper-technical view would be counter productive 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

2. (2003) 4 SCC 675

the ends of justice would prevent women from settling earlier. That is not the object of Chapter XXA of 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.”

8. Furthermore, the Supreme Court in the case of ***Jitendra Raghuwanshi and others v. Babita Raghuwanshi and another***³ has examined scope of compromise under Section 320 of Cr.P.C. in offence of non-compoundable nature.
9. The Supreme Court referred to various cases and has laid down that in cases of matrimonial matters, court should exercise power under Section 482 of Cr.P.C. sparingly and only it may exercise when the court is convinced, on the basis of material on record, that allowing the proceedings to continue would be an abuse of process of court or that the ends of justice require that the proceedings ought to be quashed.
10. In the present case, wife/petitioner has clearly stated that she has settled the dispute without fear or favour and is living separately.
11. Taking into consideration the fact that the parties have settled their dispute amicably and the petitioner & respondent No.8 are residing separately and the petitioner she does not want to continue with the criminal case, it would be in the interest of justice to quash the criminal

3(2013) 4 SCC 58

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proceedings pending before the Judicial Magistrate First Class, Ambikapur in Criminal Case No.166 of 2015.

12. For the foregoing reasons, the petition is allowed and criminal proceedings pending before the Judicial Magistrate First Class, Ambikapur in Criminal Case No.166 of 2015 are hereby quashed. Respondents No.1 to 8 are acquitted of the charges.

Sd/-

(Sanjay K. Agrawal)
JUDGE

B/-