

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 538 of 2017**

1. Manish Singh S/o Radheshyam Singh Aged About 31 Years
2. Manisha Singh W/o Dharmendra Singh Aged About 29 Years

Both R/o Rajkishor Nagar Sarkanda, Police Station & Tahsil- Bilaspur, Civil And Revenue District Bilaspur, Chhattisgarh.

3. Saurabhi Singh W/o Manish Singh Aged About 28 Years R/o Ashok Vihar Phase I I, Quarter No. 49, In Front Of Ice Factory, Chatidih, Sarkanda Bilaspur, Civil And Revenue District- Bilaspur, Chhattisgarh.

---- Petitioners**Versus**

- State of Chhattisgarh Acting Through Officer- In- Charge Mahila Police Station, Bilaspur Civil And Revenue District- Bilaspur, Chhattisgarh.

---- Respondent

For Petitioners	:	Shri Devesh G. Kela, Advocate
For Respondent-State	:	Shri Niraj Sharma, Dy. GA for the State

Hon'ble Shri Justice Goutam Bhaduri**Order On Board****12/12/2017**

1. Heard.
2. The instant petition is for quashing the FIR bearing crime No.04/2013, which was registered against the petitioner Nos.1 & 2 under Sections 498-A, 294, 506, 34 of the I.P.C. and Sections 3 & 4 of the Dowry Prohibition Act.
3. It is contended that petitioner No.3 Saurabhi Singh had filed the joint petition along with Manish Singh, who is her husband and Manisha Singh W/o Dharmendra Singh, who is her sister-in-law to quash the proceedings of FIR

giving rise to the crime No.04/2013 registered at Mahila Police Station, Bilaspur on the ground that compromise has been effected between the parties.

4. Learned counsel for the petitioners would submit that the statement of the complainant/petitioner No.3 Saurabhi Singh was recorded before the Additional Registrar (Judicial), wherein she has categorically stated that she do not want to prosecute further case in respect of the crime No.04/2013 against her husband as also the accused Manisha Singh W/o Dharmendra Singh, who was stated to be the absconding. He would further submit that during pendency of the proceedings, the parties have settled their dispute and consequently no purpose would be served in carrying out the litigation, since the complaint was in private nature and society in large would not be affected by such compromise. Consequently, the FIR bearing Crime No.04/2013 lodged under Sections 498-A, 294, 506 & 34 read with Section 3 & 4 of the Dowry Prohibition Act may be quashed.
5. 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

¹ (2012) 10 SCC 303

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 predominatingly 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. Further, in case of ***Parbatbhai Aahir @ Parbatbhai Bhimsinhbhai Karmur & Ors.*** in Criminal Appeal No.1723 of 2017 their Lordship again reiterated the view taken in case of ***Gian Singh*** (supra) and has laid down the following propositions :

“15. The broad principles which emerge from the precedents on the subject, may be summarised in the following propositions :

- (i) Section 482 preserves the inherent powers of the High Court to prevent an abuse of the process of any court or to secure the ends of justice. The provision does not confer new powers. It only recognises and preserves powers which inhere in the High Court;
- (ii) The invocation of the jurisdiction of the High Court to quash a First Information Report or a criminal proceeding on the ground that a settlement has been arrived at between the offender and the victim is not the same as the invocation of jurisdiction for the purpose of compounding an offence. While compounding an offence, the power of the court is governed by the provisions of Section 320 of the Code of Criminal Procedure, 1973. The power to quash under Section 482 is attracted even if the offence is non-compoundable.
- (iii) In forming an opinion whether a criminal proceeding or complaint should be quashed in exercise of its jurisdiction under Section 482, the High Court must evaluate whether the ends of justice would justify the exercise of the inherent power;

- (iv) While the inherent power of the High Court has a wide ambit and plenitude it has to be exercised; (i) to secure the ends of justice or (ii) to prevent an abuse of the process of any court;
- (v) The decision as to whether a complaint or First Information Report should be quashed on the ground that the offender and victim have settled the dispute, revolves ultimately on the facts and circumstances of each case and no exhaustive elaboration of principles can be formulated;
- (vi) In the exercise of the power under Section 482 and while dealing with a plea that the dispute has been settled, the High Court must have due regard to the nature and gravity of the offence. Heinous and serious offences involving mental depravity or offences such as murder, rape and dacoity cannot appropriately be quashed though the victim or the family of the victim have settled the dispute. Such offences are, truly speaking, not private in nature but have a serious impact upon society. The decision to continue with the trial in such cases is founded on the overriding element of public interest in punishing persons for serious offences;
- (vii) As distinguished from serious offences, there may be criminal cases which have an overwhelming or predominant element of a civil dispute. They stand on a distinct footing in so far as the exercise of the inherent power to quash is concerned;
- (viii) Criminal cases involving offences which arise from commercial, financial, mercantile, partnership or similar transactions with an essentially civil flavour may in appropriate situations fall for quashing where parties have settled the dispute;
- (ix) In such a case, the High Court may quash the criminal proceeding if in view of the compromise between the disputants, the possibility of a conviction

is remote and the continuation of a criminal proceeding would cause oppression and prejudice; and

- (x) There is yet an exception to the principle set out in propositions (viii) and (ix) above. Economic offences involving the financial and economic well-being of the state have implications which lie beyond the domain of a mere dispute between private disputants. The High Court would be justified in declining to quash where the offender is involved in an activity akin to a financial or economic fraud or misdemeanour. The consequences of the act complained of upon the financial or economic system will weigh in the balance.

7. Perused the statement of the victim which is on record, which was recorded before the Additional Registrar (Judicial) and the statement of the accused/husband Manish Singh. The statement of the complainant would show that she has categorically stated that she do not want to prosecute her complaint, which was registered in an FIR bearing Crime No.04/2013 and the charge-sheet No.08/2013 which was filed under Sections 420, 498-A, 294, 506 read with Section 34 of the I.P.C. and Sections 3 & 4 of the Dowry Prohibition Act. She has further categorically stated that she also do not want to prosecute her case against her sister-in-law namely Manisha Singh W/o Dharmendra Singh and prayer has been made that no further proceedings be carried out in respect of the FIR and the criminal case.
8. Considering the statement and further taking into the relation inter se between the parties, applying the aforesaid principle and also considering the fact that the dispute was in private nature and society at large would not be affected, especially taking into the fact that the complainant herself has expressed her desire not to prosecute the case and FIR.
9. Accordingly, the petition is allowed and the FIR dated 09.01.2013 bearing

Crime No.04/2013 and the criminal case bearing No.13495/2014 arising out of that and the ancillary proceedings, stand quashed. The petitioner Nos. 1 & 2 are acquitted of the charges leveled against them. No separate order is required in respect of petitioner No.3 as she was the complainant.

Sd/-

Goutam Bhaduri

Judge

Ashu