

HIGH COURT OF CHHATTISGARH, BILASPUR**Cr.M.P.No.599 of 2017**

1. Arvind S/o Mahendra Khunte aged 21 years,
 2. Mahendra S/o Baliram Khunte, aged 42 years,
 3. Baliram, S/o Moharsai Khunte, aged 62 years,
 4. Yasoda, W/o Mahendra Kumar Khunte, aged 38 years,
 5. Dhanbai W/o Baliram Khunte, aged 60 years,
- All are R/o Village -Tulsidih, P.S. Dabhara, District Janjgir Champa (CG)

---- Petitioners

Versus

1. State of Chhattisgarh, through Station House Officer, Dabhara, Civil and Revenue District Janjgir-Champa (CG)
2. Subarta Khunte W/o Arvind Khunte, D/o Shriram Kurre, age 26 years, R/o Village-Tulsidih, P.S. Dabhara, District Janjgir-Champa (CG) Presently Resided at Village Nandaurkela P.S. Sakti, District Janjgir-Champa (CG)

---Respondents

For Petitioners	:	Mr.Sanjay Dewangan, Advocate
For Respondent No.1	:	Mr.Avinash Singh, P.L.
For Respondent No.2	:	Mr.Abhishek Saraf, Advocate

Hon'ble Shri Justice Sanjay K. Agrawal**Order on Board**17/05/2017

1. This petition is against the order dated 4.4.2017 passed by the Judicial Magistrate First Class, Dabhara, District Janjgir Champa in Criminal Case No.82 of 2011 (State of Chhattisgarh Vs. Arvind and others) by which application filed by the parties for compounding the offence under Section 320 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 marriage of respondent No.2/complainant was solemnized with petitioner No.1 on 23.2.2009. Petitioner No.2 is father-in-law, petitioner No.3 is grandfather-in-law, petitioner No.4 is mother-in-law and

petitioner No.5 is grandmother-in-law of respondent No.2. F.I.R. was lodged by respondent No.2 on 25.3.2011 against the petitioners alleging that they are treating her with cruelty and demanding dowry, pursuant to which, Crime F.I.R. No.54/2011 was registered at Police Station Dabhara, District Janjgir-Champa for commission of offence under Section 498A/34 of the IPC 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 (8) of the CrPC for compounding the offence stating inter-alia that they have settled their disputes amicably, therefore, criminal case be dropped. 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. Before this Court, the petitioners and respondent No.2 were present on 10.5.2017, their statements were recorded by this Court, in which they stated that they have settled their disputes amicably. Respondent No.2 has also stated that she is not desirous of prosecuting the FIR any further. It is submitted by the parties that they have settled their disputes amicably and respondent No.2 does not want to continue with the criminal case and has compromised the case without any fear, undue influence or any pressure. Therefore, the criminal case pending before the Judicial Magistrate First Class, Dabhara be quashed.

5. 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

1. (2012) 10 SCC 303

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 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.”

6. 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 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.”

7. Furthermore, the Supreme Court in the case of **Jitendra Raghuvanshi and others v. Babita Raghuvanshi and another**³ has examined scope of compromise under Section 320 of Cr.P.C. in offence of non-compoundable nature.

2. (2003) 4 SCC 675

3 (2013) 4 SCC 58

- 8.** 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.
- 9.** In the present case, wife/respondent No.2 was present before this Court on 10.5.2017 and she has clearly stated that she has settled the dispute amicably and she does not want to continue with the criminal case.
- 10.** Taking into consideration the fact that the petitioners and respondent No.2 have settled their disputes amicably and she does not want to continue with criminal case, it would be in the interest of justice to quash the criminal proceedings pending before the Judicial Magistrate First Class, Dabhara in Criminal Case No.82 of 2011.
- 11.** For the foregoing reasons, the petition is allowed and criminal proceedings pending before the Judicial Magistrate First Class, Dabhara in Criminal Case No.82 of 2011 are hereby quashed. The petitioners are acquitted of the charges.

Sd/-

**(Sanjay K. Agrawal)
JUDGE**