

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Cr.M.P. No. 623 of 2017**

Smt. Nishtha Agrawal W/o Parul Agrawal, Aged About 24 Years R/o
M.I.G. 373, Padmanabhpur, District Durg, Chhattisgarh

---- Petitioner**Versus**

1. Parul Kumar Agrawal S/o Om Prakash Agrawal, Aged About 30 Years
Service In B C C L, R/o House No. A P C-1, Agrarpathara, Katrasgarh,
Near Colliery Hospital, Dhanbad, District Dhanbad (Jharkhand)
2. Om Prakash Agrawal S/o Late Ram Kumar Agrawal, Aged About 62
Years R/o Bagichapara, Ward No.20, Hardibazar, Near Collage
Chowk, Tahsil Pali, District Korba, Chhattisgarh
3. Prem Lata Agrawal W/o Om Prakash Agrawal, Aged About 58 Years
R/o Bagichapara, Ward No.20, Hardibazar, Near Collage Chowk,
Tahsil Pali, District Korba, Chhattisgarh
4. Sandeep Kumar S/o Om Prakash Agrawal, Aged About 31 Years R/o
Bagichapara, Ward No.20, Hardibazar, Near Collage Chowk, Tahsil
Pali, District Korba, Chhattisgarh
5. Ku. Shakshi Agrawal D/o Om Prakash Agrawal, Aged About 27 Years
R/o Bagichapara, Ward No.20, Hardibazar, Near Collage Chowk,
Tahsil Pali, District Korba, Chhattisgarh
6. State Of Chhattisgarh, Through Station House Officer, Police Station
Mahila Thana Durg, District Durg, Chhattisgarh

---- Respondents

For the Petitioner : Shri Praveen Dhurandhar,
Advocate.
For Respondents No.1 to 5 : Shri Keshav Prasad, Advocate.
For Respondent No.6/ State : Shri Ashish Shukla, Government
Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****21.07.2017**

1. Heard.
2. This petition has been brought by the petitioner under Section 482 of
the Code of Criminal Procedure with a prayer to exercise inherent

jurisdiction of this Court to quash the criminal proceedings initiated on the basis of the First Information Report registered in Crime No. 14 of 2015 in Mahila Thana, Durg for the offences under Sections 498-A, 406 read with Section 34 of the Indian Penal Code and Sections 3 and 4 of the Dowry Prohibition Act.

3. Learned counsel for the petitioner submits that petitioner – Smt. Nishtha Agrawal is the wife of respondent No.1 – Parul Kumar Agrawal. After some matrimonial dispute between them, the petitioner lodged the First Information Report against the private respondents on which criminal case has been registered against them which has been investigated and charge-sheeted. In the meanwhile, the petitioner and respondent No.1 have entered into a compromise and settled their dispute amicably and an application under Section 13 (B) of the Hindu Marriage Act has been jointly filed by the petitioner and respondent No.1 in the Family Court, Durg for dissolution of the marriage on the basis of mutual consent. An application was moved for compounding of offence before the Court of Judicial Magistrate First Class, Durg on the basis of compromise by the petitioner which is kept pending. The trial court is not competent to allow the application for compounding the offences as the offences for which the trial is proposed are not compoundable. Hence, this petition.

4. By orders of this Court, the petitioner and the respondent gave their appearance on 7.7.2017 and further by orders of this court their statements have been recorded with respect to compromise between them. Petitioner – Smt. Nishtha Agrawal has stated on oath that she and her husband/ respondent No.1 have resolved their dispute amicably and it was agreed

between them that all the criminal cases shall be withdrawn by the petitioner. Apart from other conditions of the agreement, it was stated by respondent No.1 that he has given a consent for compromise without any fear, favour or influence, hence, the criminal proceedings be dropped.

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 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

¹. (2012) 10 SCC 303

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-dominatingly civil favour 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. Considering the facts and circumstances of this case, the matrimonial dispute between the parties has been amicably settled and for this reason no purpose would be served if the private respondents are continued to be

prosecuted by the State. Hence, in the interest of justice, this petition is allowed. The criminal proceedings against respondents No.1 to 5 under Section 498-A of the Cr.P.C. pending before the Judicial Magistrate First Class, Durg in Criminal Case No. 576 of 2016 are quashed.

7. In view of above, this petition stands disposed off at the motion stage.

Sd/-

(Rajendra Chandra Singh Samant)
Judge