

HIGH COURT OF CHHATTISGARH, BILASPUR

CR.M.P. No. 694 of 2017

1. Smt. Madhuri @ Geeta Sharma, W/o. Prem Shankar Sharma, Aged About 34 Years, Occupation- Teaching Work, R/o Thanapara, Rajim, Police Station -Rajim, Tahsil & District -Raipur, Chhattisgarh.
2. Prem Shankar Sharma @ Mukesh Sharma, S/o. Shri Hemshankar Sharma, Aged About 38 Years, Occupation- Priest/ Pandit, R/o. Gaya Bhawan, Santoshi Chowk, Jamul, Police Station -Jamul, Bhilai, District Durg, Chhattisgarh.
3. Hemshankar Sharma, S/o. Gaya Prasad Sharma, Aged About 58 Years, R/o. Gaya Bhawan, Santoshi Chowk, Jamul, Police Station Jamul, Bhilai, District Durg, Chhattisgarh.
4. Chandra Shekhar Sharma, S/o. Shri Hemshankar Sharma, Aged About 34 Years, R/o. Gaya Bhawan, Santoshi Chowk, Jamul, Police Station Jamul, Bhilai, District Durg, Chhattisgarh.
5. Kamal Sharma, S/o. Shri Hemshankar Sharma, Aged About 29 Years, R/o. Gaya Bhawan, Santoshi Chowk, Jamul, Police Station Jamul, Bhilai, District Durg Chhattisgarh
6. Smt. Shashi Devi Sharma, W/o. Shri Hemshankar Sharma, Aged About 54 Years, R/o. Gaya Bhawan, Santoshi Chowk, Bramhan Para, Jamul, Police Station Jamul Bhilai, District Durg Chhattisgarh
7. Smt. Prabha Pandey, W/o Rajendra Pandey, Aged About 45 Years, R/o. Village Jarwaay, Tahsil Dhamdha, Thana Bhilai -3, District Durg Chhattisgarh
8. Rajendra Kumar Pandey, S/o. Hanuman Prasad Pandey, Aged About 48 Years, R/o. Village Jarwaay, Post Surdung, Thana Bhilai -3, District Durg Chhattisgarh.

---- Petitioners

Versus

State Of Chhattisgarh, Through District Magistrate, Durg District Durg Chhattisgarh.

-----Respondents

For Petitioners	: Mr. Shrawan Agrawal, Advocate
For Respondent/State	: Mr. Anil S. Pandey, Govt. Advocate

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

25/07/2017

Heard.

1. This petition has been filed under Section 482 of Cr.P.C. with a prayer to quash the criminal proceedings against the petitioners No.2 to 8, pending before the Court of Judicial Magistrate First Class, Durg Criminal Case NO.70/2012.
2. It is submitted that petitioner No.1, lodged a complaint on 12.12.2011 against petitioner No.2 to 8 and one Hanuman Prasad. On the basis of her complaint, offence under Section 498-A/34 of I.P.C. was registered. After completion of investigation, petitioner No.2 to 8 and Hanuman Prasad were charge-sheeted. On 19.10.2012, petitioner No.2 to 8 and Hanuman Prasad were charged with offence U/s. 498A read with Section 34 of I.P.C. and the trial against them was initiated. During the course of trial, co-accused Hanuman Prasad has died, hence, prosecution case has abated against him.
3. Petitioner No.1 and petitioner No.2 are wife and husband and petitioner No.3 to 8 are the in-laws of petitioner No.1. They have entered into a compromise and have resolved all the disputes between them. Hence for this reason, this petition has been brought for quashment of the criminal proceedings against petitioner No.2 to 8 on the ground of compromise. Hence petition may be allowed.

4. Counsel for the State opposed the grounds in the petition and the submission made in this behalf.
5. By order dated 04.07.2017, the statement of petitioner No.1, wife and petitioner No.2, husband has been recorded. Smt. Madhuri @ Geeta Sharma, petitioner No.1 has stated that compromise has been entered and the dispute has been resolved, hence at this stage she is giving consent without fear and favour or influence for compounding of the offence against the petitioner No.2 to 8. Prem Shankar Sharma @ Mukesh Sharma, petitioner No.2 has stated similarly.
6. 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

1. (2012) 10 SCC 303

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-dominatingly 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.

7. Looking to the facts and circumstances of this case and further looking to the fact that the petitioner No.1, wife and petitioner No.2, husband are living separately and the dispute between them has been resolved, therefore, considering the facts of this case, it would be in the interest of justice to quash the proceeding of Criminal Case No.70/2012, pending before the Judicial Magistrate First Class, Durg, District – Durg (C.G.) arising out of Crime No.624/2011, registered at P.S. -Jamul, District - Durg.
8. In the result, proceedings of Criminal Case No. 70/2012, arising out of the Crime No.624/2011, pending before Judicial Magistrate First Class, Durg, District – Durg is quashed. Petitioners are acquitted of the charges.
9. Accordingly, the petition stands allowed.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Balram