

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Cr.M.P. No. 1017 of 2015**

Brajesh Kumar S/o Narsingh Narayan Tiwari Aged About 35 Years
Caste Brahman, R/o Nagpur, House No. 12, Mahta Colony, Sai Nagar,
Bhandara Road, Kalmana, District Nagpur (Maharashtra).

---- Petitioner**Versus**

1. State Of Chhattisgarh through The Station House Officer, Police Station Sakti, District Janjgir Champa Chhattisgarh.
2. Smt. Suman Tiwari W/o Umesh Aged About 31 Years Caste Brahman, R/o Ward No. 6, Sakti, Police Station & Tahsil Sakti, District Janjgir Champa Chhattisgarh.

---- Respondents

For the Petitioner	: Shri Kamlesh Kumar Pandey, Advocate.
For Respondent No.1/ State	: Shri Neeraj Sharma, Deputy Government Advocate.
For Respondent No.2	: Shri Pushpendra Kumar Patel, Advocate.

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

1. Petitioner – Brajesh Kumar and Respondent No.2 – Smt. Suman Tiwari are present in person. On enquiring, both of them submit that they had been husband and wife. After some dispute between them, they are living separately and also both of them have remarried. Respondent No.2 has stated before this Court that she does not wish to continue with the prosecution against the petitioner.

2. On the First Information Report being lodged by respondent No.2 – Smt. Suman Tiwari against the petitioner and others, prosecution under Section 498-A read with Section 34 of the Indian Penal Code was launched

against the petitioner, which is pending before the Court of Judicial Magistrate First Class, Sakti. On the date of first appearance before the court below, an application for compounding of offence was filed before the court which was rejected as the offence is not compoundable. Hence, this petition has been brought with a prayer to exercise inherent jurisdiction under Section 482 of the Code of Criminal Procedure.

3. 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

¹. (2012) 10 SCC 303

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 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.

4. Looking to the facts and circumstances of the case, particularly that the petitioner and respondent No.2 being husband and wife have amicably resolved their dispute and are living separately without having any grievance at present and on the basis of the specific statement and consent given by respondent No.2, this petition deserves to be allowed. Hence, it is allowed.

5. The criminal proceedings against the petitioner under Section 498-A of the Cr.P.C. pending before the trial Court in Criminal Case No. 512 of 2012 are quashed.

Sd/-

(Rajendra Chandra Singh Samant)
Judge