

HIGH COURT OF CHHATTISGARH, BILASPUR**CRR No. 896 of 2014**

1. Viplav Sharma S/o . Shiv Kumar Sharma Aged About 31 Years R/o. Viplav Ssadan Kushalpur, Santoshi Chowk P.S. Purani Basti, Raipur (C.G.)
2. Shiv Kumar Sharma S/o . Late Bhuvanlal Sharma Aged About 67 Years R/o. Viplav Ssadan Kushalpur, Santoshi Chowk P.S. Purani Basti, Raipur (C.G.)
3. Smt. Pushpa Sharma W/o . Shiv Kumar Sharma Aged About 63 Years R/o. Viplav Ssadan Kushalpur, Santoshi Chowk P.S. Purani Basti, Raipur (C.G.)

--- Petitioners**Versus**

- The State of Chhattisgarh through the Police Station Purani Basti, Raipur (C.G.)

--- Respondent

For the applicants	:	Mr. Amiyakant Tiwari, Advocate
For the non-applicant	:	Mr. Anupam Dubey, Advocate

CRR No. 688 of 2015

- Smt. Rakhi Sharma W/o Viplav Sharma Aged About 30 Years R/o 27 Kholi, Behind Bajpai Chamber, Vikas Nagar Bilaspur, Distt. Bilaspur Chhattisgarh

--- Petitioner**Versus**

1. Nagendra Sharma S/o Late Shivkumar Sharma Aged About 40 Years R/o Bramhanmpara, Police Station - City Kotwali, Distt. Durg Chhattisgarh
2. Smt. Simpal Sharma W/o Dr. Nagendra Sharma Aged About 34 Years R/o Bramhanmpara, Police Station - City Kotwali, Distt. Durg Chhattisgarh
3. Kailash Shamra S/o Mannalal Sharma Aged About 37 Years R/o Amamapara, P.S. - Azad Chowk, Distt. Raipur Chhattisgarh
4. Shilpa Sharma W/o Kailash Sharma Aged About 33 Years R/o Amamapara, P.S. - Azad Chowk, Distt. Raipur Chhattisgarh

---- Respondents

For the applicant	:	Mr. Aman Kesarwani, Advocate
For the non-applicants	:	Mr. Amiyakant Tiwari, Advocate

Hon'ble Shri Justice Goutam Bhaduri

CAV ORDER

05.10.2017

1. Both the revisions are being heard together as it originates from the order dated 09.07.2013 passed by the Judicial Magistrate First Class, Raipur in Criminal Case No.63/2011. By such order, applicants Viplav Sharma, deceased Shiv Kumar Sharma and Smt. Pushpa Sharma were convicted under section 498-A read with Section 34 of IPC whereas accused Nagendra Sharma, Smt. Simpal Sharma, Kailash Sharma and Shilpa Sharma were acquitted of the charges. Against such conviction the accused who were convicted namely Viplav Sharma, deceased Shiv Kumar Sharma, Smt. Pushpa Sharma had filed an appeal before the 7th Addl. Sessions Judge, Raipur being Criminal Appeal No.169 of 2013 wherein the order of conviction passed by the learned JMFC u/s 498-A/34 IPC and the sentence of one year R.I. and fine of Rs.1000/- was affirmed. Against the same order, the victim had filed an appeal bearing Criminal Appeal No.186/2013 against acquittal which too was decided on 28.11.2014 wherein the acquittal order passed in favour of Nagendra Sharma, Smt. Simpal Sharma, Kailash Sharma and Shilpa Sharma was upheld. Therefore, the said two revisions were preferred before this Court one bearing Criminal Revision No. No.896/2014 by the convicts namely Viplav Sharma, deceased Shiv Kumar Sharma and Smt. Pushpa Devi whereas the other revision was preferred by the victim Smt. Rakhi Sharma which was registered as Criminal Revision

No.688/2015.

2. Since the preliminary issue involved in both the revisions are are one and the same, they are heard together and disposed of by this common order.
3. The victim complainant Rakhi Sharma who is present in the court would submit that compromise has been effected between the parties and she do not want to prosecute the revision and also do not prosecute her complaint for further conviction and in lieu of the compromise, she has received Rs.5 lakhs earlier and now Rs.5 lakhs has been received by way of Demand Draft before the Court today. Therefore, in view of this, the convicts/applicants also submit that amicable settlement has been arrived and since the matter arises out of settlement of a matrimonial dispute, the conviction made by the courts below may be set aside.
4. The Supreme Court in case of ***Gian Singh Vs. State of Punjab and Another***, reported in ***(2012) 10 SCC 303*** while exercising the power under Section 482 has laid down the preposition that power to quash the proceeding under Section 482 is plenary in nature, which is not arrested by the provisions contained in Section 320 of Cr.P.C. Paras 57 & 58 of the said decision are relevant here and quoted below:

“57. Quashing of offence or criminal proceedings on the ground of settlement between an offender and victim is not the same thing as compounding of offence. They are different and not interchangeable. Strictly speaking, the power of compounding of offences given to a court under Section 320 is materially different from the quashing of criminal proceedings by the High Court in exercise of its inherent jurisdiction. In compounding of

offences, power of a criminal court is circumscribed by the provisions contained in Section 320 and the Court is guided solely and squarely thereby while, on the other hand, the formation of opinion by the High Court for quashing a criminal offence or criminal proceeding or criminal complaint is guided by the material on record as to whether the ends of justice would justify such exercise of power although the ultimate consequence may be acquittal or dismissal of indictment.

58. Where the High Court quashes a criminal proceeding having regard to the fact that the dispute between the offender and the victim has been settled although the offences are not compoundable, it does so as in its opinion, continuation of criminal proceedings will be an exercise in futility and justice in the case demands that the dispute between the parties is put to an end and peace is restored; securing the ends of justice being the ultimate guiding factor. No doubt, crimes are acts which have harmful effect on the public and consist in wrongdoing that seriously endangers and threatens the well-being of the society and it is not safe to leave the crime-doer only because he and the victim have settled the dispute amicably or that the victim has been paid compensation, yet certain crimes have been made compoundable in law, with or without the permission of the court. In respect of serious offences like murder, rape, dacoity, etc., or other offences of mental depravity under IPC or offences of moral turpitude under special statutes, like the Prevention of Corruption Act or the offences committed by public servants while working in that capacity, the settlement between the offender and the victim can have no legal sanction at all. However, certain offences which overwhelmingly and predominantly bear civil flavour having arisen out of civil, mercantile, commercial, financial, partnership or such like transactions or the offences arising out

of matrimony, particularly relating to dowry, etc. or the family dispute, where the wrong is basically to the victim and the offender and the victim have settled all disputes between them amicably, irrespective of the fact that such offences have not been made compoundable, the High Court may within the framework of its inherent power, quash the criminal proceeding or criminal complaint or FIR if it is satisfied that on the face of such settlement, there is hardly any likelihood of the offender being convicted and by not quashing the criminal proceedings, justice shall be casualty and ends of justice shall be defeated. The above list is illustrative and not exhaustive. Each case will depend on its own facts and no hard-and-fast category can be prescribed.”

5. Smt. Rakhi Sharma who is present in the Court has stated that compromise has been effected and consequently the victim has expressed her satisfaction before the Court that having received amount of compensation, she do not want to prosecute the revision against the acquittal and further do not continue with the proceedings of criminal complaint which was filed earlier. Therefore, in view of the above submission, criminal revision filed by the complainant bearing No. Cr.R.No. 688 of 2015 is dismissed for non-prosecution at the behest of the applicant Smt. Rakhi Sharma. Further taking into such submission of the parties that the compromise has been effected without undue influence, pressure or coercion, it would be appropriate in the interest of justice to quash the proceedings u/s 498-A of IPC qua conviction of applicants/convicts.

6. Consequently the conviction made by the JMFC, Raipur under section 498-A read with section 34 IPC against the applicants

Viplav Sharma and Smt. Pushpa Sharma in Criminal case No. 63/2011 is hereby quashed and they are acquitted of the charges u/s 498-A read with section 34 of IPC. Accordingly, the bonds and sureties furnished by them shall stand discharged. Consequently, the criminal proceedings arising out of F.I.R.No. No.355/2010 registered at P.S. Purani Basti, Raipur, shall also stand quashed.

7. In the result, both the revisions are disposed of with the above observation/direction.

**Sd/-
GOUTAM BHADURI
JUDGE**