

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Cr.M.P. No. 884 of 2017**

1. Keshar Dewangan S/o Late Naresh Dewangan, Aged About 30 Years R/o Village Chandrapur, Dewangan Mohalla, Police Station Chandrapur, District Janjgir Champa, Chhattisgarh.
2. Khemraj Dewangan S/o Naresh Dewangan, Aged About 19 Years R/o Village Chandrapur, Dewangan Mohalla, Police Station Chandrapur, District Janjgir Champa, Chhattisgarh.
3. Ku. Jamuna Dewangan D/o Late Naresh Dewangan Aged About 21 Years R/o Village Chandrapur, Dewangan Mohalla, Police Station Chandrapur, District Janjgir Champa, Chhattisgarh.

---- Petitioners**Versus**

1. State Of Chhattisgarh Through Station House Officer, Chandrapur, Civil & Revenue District Janjgir Champa, Chhattisgarh.
2. Rajkumari @ Rama Dewangan @ Ramkumari Dewangan W/o Keshar Dewangan, Aged About 26 Years R/o Village Tanoud, Shivrinarayan, Tahsil Pamgarh, District Janjgir Champa, Chhattisgarh.

---- Respondents

For the Petitioners	:	Shri Ishwar Jaiswal, Advocate.
For Respondent No.1/State	:	Shri Anil S. Pandey, Government Advocate.
For Respondent No.2	:	Shri Abhishek Saraf, Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****11.09.2017**

1. Heard.
2. This petition has been brought under Section 482 of the Code of Criminal Procedure with a prayer to quash the criminal proceedings against the petitioners.

3. Respondent No.2 - Rajkumari @ Rama Dewangan @ Ramkumari Dewangan filed a complaint against the petitioners. On the basis of which, the petitioners are being prosecuted for the offences under Section 498-A read with Section 34 of the Indian Penal Code in Criminal Case No. 262 of 2014 before the Court of Judicial Magistrate First Class, Dabhara.

4. Respondent No.2 and the petitioners have compromised their disputes and amicable relations have been established. Consequent to that, as per the condition of compromise, the criminal proceedings against the petitioners have to be withdrawn. An application was moved for compromise between the parties before the trial Court but the same has been rejected as the offence is not compoundable. Hence, this petition.

5. Statement of respondent No.2/ the complainant has been recorded, who has stated on oath that she has given a consent for compromise without any fear or influence and she wishes that the criminal proceedings against the petitioners be withdrawn.

6. Learned State counsel objects to the petition and the submissions made by the petitioners. He further submits that the offence is not compoundable. Hence, this petition may be dismissed.

7. The Hon'ble Supreme Court in ***Gian Singh v. State of Punjab & Another***¹ has laid down the following principles :

¹. (2012) 10 SCC 303

“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 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.

Considering the nature of the allegations against the petitioners in this case and in view of law laid down by the Hon'ble Apex Court in the afore-quoted case, this appears to be a fit case in which the inherent powers could be exercised as the dispute between the parties has been amicably resolved. Hence, for these reasons, this petition is allowed at the motion stage. The criminal proceedings against the petitioners pending before the Court of Judicial Magistrate First Class, Dabhara,

District Janjgir-Champa in Criminal Case No. 262 of 2014 are hereby quashed.

8. Accordingly, this petition stands disposed off.

Sd/-

(Rajendra Chandra Singh Samant)

Judge

Nimmi