

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Cr.M.P. No. 1130 of 2017**

1. Utkarsh Bajpai S/o Shri Prakash Bajpai, Aged About 30 Years R/o B-3/9, Ujjawal Nagar, N.T.P.C., Seepat, District- Bilaspur, Chhattisgarh.
2. Smt. Shobharani Bajpai W/o Late Late Shri Prakash Bajpai, Aged About 65 Years R/o B-3/9, Ujjawal Nagar, N.T.P.C., Seepat, District- Bilaspur, Chhattisgarh.
3. Smt. Roshni Bajpai W/o Shri Utkarsh Bajpai Aged About 27 Years R/o B-3/9, Ujjawal Nagar, N.T.P.C., Seepat, District- Bilaspur, Chhattisgarh.

---- Petitioners**Versus**

State Of Chhattisgarh Through The District Magistrate, Bilaspur,
District Bilaspur, Chhattisgarh.

---- Respondent

For the Petitioners : Shri Achyut Tiwari, Advocate.
For the Respondent / State : Shri Lav Sharma, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****21.09.2017**

1. Heard.
2. This petition has been brought by the petitioners under Section 482 of the Code of Criminal Procedure with a prayer to quash the criminal proceedings based on the First Information Report against the petitioners No.1 and 2, lodged by petitioner No.3.
3. It is submitted that on the complaint made by petitioner No.3 – Smt. Roshni Bajpai offences under Section 498-A read with Section 34 of the Indian Penal Code and Sections 3 and 4 of the Dowry Prohibition Act and have been registered, which is being investigated by Police Station Civil Lines, Bilaspur. In the meanwhile, petitioner No.3 – Smt. Roshni Bajpai, the

complainant has compromised with petitioners No.1 and 2 and the dispute between them has been resolved amicably. Consequent to that, this petition has been filed.

4. Learned State counsel has opposed the submissions made and submits that no ground is made out for quashment of the FIR against petitioners No.1 and 2.

5. Perused the record.

6. Proposed accused and the complainant have jointly filed this petition. Petitioner No.3 – Smt. Roshni Bajpai was examined by the Additional Registrar (Judicial), High Court of Chhattisgarh, Bilaspur. She has stated on oath that she has given a consent for this compromise without fear, favour or influence and she wishes that the criminal proceedings against petitioners No. 1 and 2 be withdrawn. It is also submitted that petitioners No.1 and 3 have jointly filed an application for divorce on the basis of mutual consent.

7. Considering the submissions made and the statement of the complainant/ petitioner No.3, this petition is entertainable in view of the judgment of the Hon'ble Supreme Court in ***Gian Singh v. State of Punjab & Another***¹ wherein the Apex Court 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

¹. (2012) 10 SCC 303

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-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.

8. Considering the facts and circumstances of this case, particularly the fact that the dispute between the parties has been amicably settled and for this reason no purpose would be served if the petitioners are continued to be prosecuted by the State, in the interest of justice, this petition is allowed. The criminal proceedings against the petitioners No.1 and 2 under Section 498-A read with Section 34 of IPC and Sections 3 and 4 of the Dowry Prohibition Act are hereby quashed.

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

SD/-

(Rajendra Chandra Singh Samant)
Judge