

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Cr.M.P. No. 1196 of 2017**

1. Arvind Shukla S/o Dinesh Kumar Shukla, Aged About 29 Years R/o Karbala Road, Police Station Kotwali, District Bilaspur, Chhattisgarh
2. Smt. Ganga Shukla W/o Dinesh Kumar Shukla, Aged About 55 Years R/o Karbala Road, Police Station Kotwali, District Bilaspur, Chhattisgarh
3. Dinesh Kumar S/o Late Devi Prasad Shukla, Aged About 61 Years R/o Karbala Road, Police Station Kotwali, District Bilaspur, Chhattisgarh
4. Akhilesh Kumar S/o Dinesh Shukla, Aged About 31 Years R/o Karbala Road, Police Station Kotwali, District Bilaspur, Chhattisgarh

---- Petitioners**Versus**

1. State Of Chhattisgarh Through P.S. Civil Lines Bilaspur, District Bilaspur, Chhattisgarh
2. Smt. Anupama Shukla W/o Akhilesh Shukla, Aged About 29 Years R/o Gandhi Nagar, Near Balram Talkies, Bilaspur, District Bilaspur, Chhattisgarh

---- Respondents

For the Petitioners	: Shri Umakant Singh Chandel, Advocate.
For Respondent No.1/ State	: Shri Neeraj Sharma, Deputy Government Advocate.
For Respondent No.2	: Smt. Laxmin Tondey, Advocate.

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 against the petitioners on the basis of compromise.
3. It is submitted that respondent No.2 – Smt. Ganga Shukla, is the wife of petitioner No.4 – Akhilesh Kumar. On the complaint made by respondent

No.2, the petitioners are being prosecuted for the offences under Section 498-A read with Section 34 of the Indian Penal Code and Section 4 of the Dowry Prohibition Act. During the pendency of the case, a compromise has been arrived at between the petitioners and respondent No.2 and the application filed for compounding offences has been rejected by order dated 22.7.2017 as the offences are not compoundable under Section 317 of the Cr.P.C. Hence, this petition.

4. Learned State counsel opposes the petition and the submissions made on behalf of the petitioners.

5. Respondent No.2 – Smt. Anupama Shukla 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compromise without fear, favour or influence and she wishes that the criminal proceedings against the petitioners be withdrawn.

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**

¹. (2012) 10 SCC 303

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.

7. 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 under Section 498-A read with Section 34 of IPC and Section 4 of the Dowry Prohibition Act pending before the Learned Chief Judicial Magistrate, Bilaspur in Criminal Case No. 6292 of 2016 are hereby quashed.

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

Sd/-

(Rajendra Chandra Singh Samant)
Judge