

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 1224 of 2017**

1. Kamlesh Khare S/o Bainlal Khare, Aged About 22 Years
2. Kunti Bai W/o Bainlal Khare, Aged About 45 Years
3. Rajesh Khare S/o Bainlal Khare, Aged About 23 Years

All are R/o Village Ghumarra, Police Station Khairagarh, District Rajnandgaon, Chhattisgarh (Accused Persons)

---- **Petitioners****Versus**

1. State of Chhattisgarh Through The Police Station Khairagarh District Rajnandgaon, Chhattisgarh (Prosecution)
2. Smt Triveni Bai W/o Kamlesh Khare, Aged About 20 Years R/o Village Ghumarra, Police Station Khairagarh, District Rajnandgaon, Chhattisgarh (Informant)

---- **Respondents**

For Petitioners	:	Shri Abhishek Pandey, Advocate
For Respondent-State	:	Shri Ramakant Pandey, PL for the State

Hon'ble Shri Justice Goutam Bhaduri**Order On Board****24/10/2017**

1. The instant petition is against the order dated 28.07.2017, wherein an application under Section 320 of the Cr.P.C. to compound the offence under Section 498-A IPC was dismissed, however, the offence under Section 323 I.P.C. was allowed.
2. Respondent No.2 Smt Triveni Bai was married to petitioner No.1 in the month of April, 2011. Thereafter, it was alleged that she was subjected to cruelty for demand of dowry and as such FIR was lodged by her on

07.03.2012, on which the offence under Section 323 & 498-A read with Section 34 of the I.P.C. was registered. During the course of trial an application was filed by the respondent No.2/wife that she has compounded the offence and therefore, the proceedings under Section 323 & 498-A read with Section 34 of I.P.C. may be quashed. Learned trial Court after hearing the parties though compounded the offence under Section 323 I.P.C. but refused to compound the offence under Section 498-A I.P.C. as it was not compoundable.

3. Learned counsel for the petitioners would submit that both the parties have compounded the offence and no useful purpose would be served in protracting the trial and it will damage the reunion of the husband & wife. Consequently, the proceedings before the Court below under Section 498-A read with Section 34 of the I.P.C. may be quashed.
4. During the course of proceedings, respondent No.2 had given her statement before the Additional Registrar (Judicial), which is part of the record, wherein she has stated that she has compounded the offence and she do not want any proceeding against the petitioners and in respect of the criminal case No.106/2012 arising out of the crime No.56/12, she do not want any further action.
5. 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

¹ (2012) 10 SCC 303

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 predominatingly civil flavour 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.

62. In view of the above, it cannot be said that B.S. Joshi, Nikhil Merchant and Manoj Sharma were not

correctly decided. We answer the reference accordingly. Let these matters be now listed before the Bench(es) concerned”

6. The Hon'ble Supreme Court in ***B.S. Joshi & Ors. v. State of Haryana & Anr.***² has held as under :

“14. There is no doubt that the object of introducing Chapter XX-A containing Section 498A in the Indian Penal Code was to prevent the torture to a woman by her husband or by relatives of her husband. Section 498A was added with a view to punishing a husband and his relatives who harass or torture the wife to coerce her or her relatives to satisfy unlawful demands of dowry. The hyper-technical view would be counter productive and would act against interests of women and against the object for which this provision was added. There is every likelihood that non-exercise of inherent power to quash the proceedings to meet the ends of justice would prevent women from settling earlier. That is not the object of Chapter XXA of Indian Penal Code.

15. In view of the above discussion, we hold that the High Court in exercise of its inherent powers can quash criminal proceedings or FIR or complaint and Section 320 of the Code does not limit or affect the powers under Section 482 of the Code.”

7. The principles laid down by the Supreme Court clearly leads to an irresistible conclusion that a dispute which arise out of a matrimonial nature where the wrong is basically private or personal in nature and parties have resolved their entire dispute, the High Court may quash the criminal proceedings. If the High Court finds it to be unfair and contrary to the interest of justice to continue with the criminal proceeding despite settlement and compromise between the victim and the wrongdoer and make put to an end to the criminal case.
8. In the instant case, perusal of the statement of the wife, which was recorded before the Additional Registrar (Judicial), would show that she do not want any further proceedings against the petitioners. Consequently, in view of

² (2003) 4 SCC 675

the law laid down by the Supreme Court and in view of the facts of this case, it would be in interest of justice to quash the proceedings which are pending before the criminal Court under Section 498-A read with Section 34 IPC. The proceedings before the trial Court in criminal case No.106/12 arising out of crime No.57/12 against the petitioners stands quashed. The petitioners are acquitted of the charges leveled against them.

9. Accordingly, the Cr.M.P. stands allowed.

Sd/-

Goutam Bhaduri
Judge

Ashu