

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 1277 of 2017**

1. Alekh Ram S/o Pasi Ram, Aged About 22 Years
2. Smt. Chhena Bai W/o Pasi Ram, Aged About 35 Years
3. Ku. Nilima D/o Pasi Ram, Aged About 35 Years

All are by Caste Dhobi, R/o Village Radhapur, Police Station Chandrapur, District Janjgir Champa, Chhattisgarh.

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

1. State of Chhattisgarh Through The Station House Officer, Police Station Chandrapur, District Janjgir Champa, Chhattisgarh.
2. Smt. Sunita Dhobi W/o Alekh Ram, Aged About 27 Years R/o Village Radhapur, Police Station Chandrapur, District Janjgir Champa, Chhattisgarh.

---- **Respondents**

For Petitioners	:	Shri B. Roy, Advocate
For Respondent-State	:	Shri S.K. Mishra, PL for the State

Hon'ble Shri Justice Goutam Bhaduri**Order On Board****25/10/2017**

1. The instant petition is against the order dated 18.08.2017, wherein an application under Section 320 of the Cr.P.C. to compound the offence under Section 498-A read with Section 34 of the I.P.C. & Sections 3 & 4 of the Dowry Prohibition Act, filed by the victim and the petitioners was dismissed.
2. An FIR was lodged by respondent No.2 Smt. Sunita Dhobi that she was married to petitioner No.1 Alekh Ram Dhobi on 14.03.2009. Thereafter, she was subjected to cruelty for demand of dowry by all the petitioners.

Consequently, on such report, the investigation was carried out and charge-sheet was filed. During the course of trial an application was filed by the parties that they have compromised the issue, therefore, the criminal proceedings may be quashed, but the trial Court has refused to accept the submission and dismissed the application under Section 320 of the Cr.P.C., therefore, the present petition.

3. Learned counsel for the petitioners would submit that the statement of the complainant Smt. Sunita Dhobi were recorded before the Additional Registrar (Judicial) on 06.10.2017 and as per her statement compromise has been effected between the parties, therefore, the proceedings before the criminal Court may be quashed.
4. Perusal of the record would show that the statement of complainant/respondent No.2 was recorded on 06.10.2017, wherein she has stated that she has entered into compromise with the petitioners and the compromise has been effected without any fear, favour & undue influence & pressure. Consequently, she do not want any further proceeding in respect of the criminal case No.233/2011, which has arisen out of the crime No.91/2011 at Police Station Chandrapur, District Janjgir-Champa.
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 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 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. The statement of the victim would show that she has compounded the offence and she do not want any further action against the petitioners. Considering the same and in view of the principles laid down by the Supreme Court, it would be in the interest of justice to quash the proceedings which are pending before the criminal Court under Section 498-A read with Section 34 of the I.P.C. and Sections 3 & 4 of the Dowry Prohibition Act in criminal case No.233/2011. Accordingly, the charges

² (2003) 4 SCC 675

leveled against the petitioners under Section 498-A read with Section 34 of the I.P.C. and under Sections 3 & 4 of the Dowry Prohibition Act are quashed. The petitioners are acquitted of the charges leveled against them.

9. Accordingly, the CRMP stands allowed.

Sd/-

Goutam Bhaduri
Judge

Ashu