

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 1424 of 2017**

1. Kedarnath @ Raju & S/o Mahendra Kumar Chandra, Aged About 25 Years
2. Mahendra, S/o Jagdish Chandra, Aged About 46 Years
3. Gangotri Bai, W/o Mahendra Kumar Chandra, Aged About 44 Years

All are R/o Village Faraswani, P. S. Dabhara, District Janjgir Champa Chhattisgarh.

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

1. State of Chhattisgarh Through Station House Officer, Dabhara, Civil & Revenue District Janjgir Champa Chhattisgarh.
2. Smt. Chaya Chandra, W/o Kedarnath @ Raju, Aged About 24 Years R/o Village Faraswani, P. S. Dabhara, District Janjgir Champa Chhattisgarh.

---- **Respondents**

For Petitioners	:	Shri Ishwar Jaiswal, Advocate
For Respondent-State	:	Shri Anupam Dubey, Dy. GA for the State
For Respondent No.2	:	Shri Akhtar Hussain, Advocate

Hon'ble Shri Justice Goutam Bhaduri**Order On Board****01/11/2017**

1. Heard.
2. This petition is against the order dated 29.08.2017, passed in criminal case No.242/2016, by the JMFC, Dabhara, District Janjgir Champa, wherein an application under Section 320 (2) of the Cr.P.C. to compound the offence under Section 498-A of the I.P.C. has been dismissed.
3. As per the prosecution, the petitioner No.1 Kedarnath @ Raju was married

to respondent No.2 Smt. Chaya Chandra. Petitioner Nos. 2 & 3 are the father-in-law & mother-in-law, respectively, of the respondent No.2. The instant petition is filed by the husband, father-in-law & mother-in-law and the wife has been arrayed as respondent No.2 in the petition. It was stated that after the marriage, a report was made by the wife, which was registered under Section 498-A read with Sections 506, 34 of the I.P.C. and after investigation the charge-sheet was filed. During the course of trial an application was filed under Section 320 (2) of the Cr.P.C. with a prayer that the offence has been compounded in between the parties, therefore, the petitioners may be exonerated & acquitted from the charges leveled against them and learned Court below by its impugned order dated 29.08.2017 though allowed the prayer to compound the offence under Section 506 IPC and acquitted the petitioners from the said charges but in respect of Section 498-A IPC dismissed the same by holding that the offence under Section 498-A IPC is non-compoundable, therefore, the instant petition.

4. Learned counsel for the petitioners as also for respondent No.2 submitted that the parties have compounded the offence and no useful purpose would be served in protracting the trial and the parties have amicably separated and consequently the proceeding before the Court below under Section 498-A read with Section 34 of the I.P.C. may be quashed.
5. During the course of proceeding the statement of the wife Chaya was recorded before the Additional Registrar (Judicial) wherein she stated that she has identified the petitioner and stated that they have compounded the offence and she do not want any further action in respect of the criminal case bearing No.242/2016, which was the out come of the crime No.86/2016 registered for the offence under Section 498-A read with Section 34 of the I.P.C.

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 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

1 (2012) 10 SCC 303

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”

7. 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.”

8. 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.

9. In the instant case, the statement of respondent No.2 recorded before the Additional Registrar (Judicial) would show that the complainant/wife do not

² (2003) 4 SCC 675

want to proceed further in the matter. Consequently, in view of the law 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.

10. In the result, the proceedings before the trial Court in criminal case No.242/2016 under Section 498-A read with Section 34 of the I.P.C. are quashed. The petitioners are acquitted of the charges under Section 498-A read with Section 34 of the I.P.C. leveled against them

11. Accordingly, the CRMP stands allowed.

Sd/-

Goutam Bhaduri
Judge

Ashu