

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 1592 of 2017**

1. Raj Kumar Dhimar S/o Bhagatram Dhimar, Aged About 30 Years,
 2. Bhagatram Dhimar S/o Jhumuk Dhimar Aged About 58 Years,
 3. Sushila Dhimar W/o Bhagat Ram Dhimar Aged About 53 Years,
- All are resident of Village Hansda, Police Station Berla, District Bemetara, Chhattisgarh.
4. Pawan Dhimar S/o Kanhaiya Dhimar Aged About 39 Years R/o Village Kandraka, Police Station Kumhari, District Durg, Chhattisgarh.

---- **Petitioners**

Versus

1. State Of Chhattisgarh Through District Magistrate Durg, District Durg, Chhattisgarh.
2. Smt. Durga Dhimar W/o Raj Kumar Dhimar, Aged About 27 Years R/o Village Kugda, Police Station Kumhari, District Durg, Chhattisgarh.

---- **Respondents**

For petitioners - Shri C.R. Sahu, Advocate.
For respondent No.2- Shri S.P. Sahu, Advocate.
For Respondent No.1/State –Shri Neeraj Sharma, Dy.G.A.

Hon'ble Shri Justice Goutam Bhaduri**Order****5/12/2017**

1. Instant petition is for quashing of Criminal Case bearing No.733/2013 pending before the Judicial Magistrate First Class Bhilai-3, District Durg for offence under section 498-A read with 34 of IPC. While case was pending an application was filed under section 320 sub-section 1 & 2 of Cr.P.C. which was dismissed by the Judicial Magistrate.
2. As per the prosecution case, a report was lodged by respondent No.2 Smt. Durga Dhimar against the petitioners that she was married to petitioner No.1 Raj Kumar Dhimar one year back and thereafter after her marriage she was subjected to torture for demand of dowry, therefore report was made on 5/12/2013. Subsequently, after investigation charge sheet was filed. While case was pending an application was filed under

Section 320 sub-section 1 & 2 of Cr.P.C. on the ground that the parties have settled their dispute, therefore proceeding may be quashed.

3. Learned counsel for the petitioners would submit that parties inter-se have settled their dispute which is also not disputed by counsel for the respondent No.2 and he would submit that under the facts of this case criminal case and the proceeding may be dropped against the petitioners.

4. 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

1 (2012) 10 SCC 303

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.

5. Further, in case of ***Parbatbhai Aahir @ Parbatbhai Bhimsinhbhai Karmur & Ors.*** decided on 04.10.2017 in Criminal Appeal No.1723 of 2017 their Lordship again reiterated the view taken in case of ***Gian Singh*** (supra) and has laid down the following propositions :

“15. The broad principles which emerge from the precedents on the subject, may be summarised in the following propositions :

- (i) Section 482 preserves the inherent powers of the High Court to prevent an abuse of the process of any court or to secure the ends of justice. The provision does not confer new powers. It only recognises and preserves powers which inhere in the High Court;
- (ii) The invocation of the jurisdiction of the High Court to quash a First Information Report or a criminal proceeding on the ground that a settlement has been arrived at between the offender and the victim is not the same as the invocation of jurisdiction for the purpose of compounding an offence. While compounding an offence, the power of the court is governed by the provisions of Section 320 of the Code of Criminal Procedure, 1973. The power to

quash under Section 482 is attracted even if the offence is non-compoundable.

(iii) In forming an opinion whether a criminal proceeding or complaint should be quashed in exercise of its jurisdiction under Section 482, the High Court must evaluate whether the ends of justice would justify the exercise of the inherent power;

(iv) While the inherent power of the High Court has a wide ambit and plenitude it has to be exercised; (i) to secure the ends of justice or (ii) to prevent an abuse of the process of any court;

(v) The decision as to whether a complaint or First Information Report should be quashed on the ground that the offender and victim have settled the dispute, revolves ultimately on the facts and circumstances of each case and no exhaustive elaboration of principles can be formulated;

(vi) In the exercise of the power under Section 482 and while dealing with a plea that the dispute has been settled, the High Court must have due regard to the nature and gravity of the offence. Heinous and serious offences involving mental depravity or offences such as murder, rape and dacoity cannot appropriately be quashed though the victim or the family of the victim have settled the dispute. Such offences are, truly speaking, not private in nature but have a serious impact upon society. The decision to continue with the trial in such cases is founded on the overriding element of public interest in punishing persons for serious offences;

(vii) As distinguished from serious offences, there may be criminal cases which have an overwhelming or predominant element of a civil dispute. They stand on a distinct footing in so far as the exercise of the inherent power to quash is concerned;

(viii) Criminal cases involving offences which arise from commercial, financial, mercantile, partnership or similar transactions with an essentially civil flavour may in appropriate situations fall for quashing where parties have settled the dispute;

(ix) In such a case, the High Court may quash the criminal proceeding if in view of the compromise between the disputants, the possibility of a conviction is remote and the continuation of a

criminal proceeding would cause oppression and prejudice; and

(x) There is yet an exception to the principle set out in propositions (viii) and (ix) above. Economic offences involving the financial and economic well-being of the state have implications which lie beyond the domain of a mere dispute between private disputants. The High Court would be justified in declining to quash where the offender is involved in an activity akin to a financial or economic fraud or misdemeanour. The consequences of the act complained of upon the financial or economic system will weigh in the balance.

6. Perusal of the case would show that statement of the parties were recorded before the Additional Registrar (Judicial) and the respondent No.2 has stated that she had filed the complaint before the police at Police Station Kumhari, District Durg which was registered bearing FIR No.253/2013 wherefrom criminal case was registered bearing No.733/2013 which is pending before JMFC Bhilai-3, District Durg. Statement would further record that during pendency of the proceeding parties have settled their dispute and the settlement has been arrived at without any fear and undue influence, therefore she do not want to prosecute her further claim in the Crime No. 253/2013 and the Criminal Case No.733/2013. Perusal of the FIR would show that Crime No. 253/2013 was registered at Police Station Kumhari, District Durg under Section 498-A read with 34 of IPC. Taking into principle laid down by the Supreme Court and considering the statement of respondent No.2/wife, instant petition is allowed. Consequently, Criminal Case No.733/2013 pending before JMFC Bhilai-3, District Durg under Section 498-A read with 34 of IPC is quashed. The petitioners are acquitted of the charges.

Sd/-

(Goutam Bhaduri)

JUDGE

