

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 44 of 2017**

1. Badri Prasad Kashyap & Anr. S/o Late Umeda Kashyap Aged About 58 Years R/o Village- Tharakpur, Police Station- Lormi, Tehsil- Lormi, District Mungeli, Chhattisgarh.
2. Smt. Usha Bai W/o Badri Prasad Kashyap Aged About 45 Years R/o Village- Tharakpur, Police Station- Lormi, Tehsil- Lormi, District Mungeli, Chhattisgarh.

---- Petitioners**Versus**

1. State Of Chhattisgarh & Anr. Through, Office- In Charge, Police Station Lormi, District Mungeli, Chhattisgarh.
2. Smt. Uttara Bai Kashyap W/o Badri Prasad Kashyap Aged About 31 Years R/o Village- Tharakpur, Police Station- Lormi, Tehsil- Lormi, District Mungeli, Chhattisgarh. Currently Residing At Tayaba Chowk, Talapara, Police Station Civil Lines, Bilaspur, District- Bilaspur, Chhattisgarh.

---- Respondents

For Petitioners	:	Shri Akhil Mishra, Advocate.
For State/Respondent No.1	:	Shri Anil Pandey, Govt. Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**Order On Board****09/08/2017**

Heard.

1. This petition has been brought under Section 482 of Cr.P.C. with a prayer to exercise inherent powers for quashing the criminal proceedings against the petitioner initiated on the basis of FIR under Section 498A and 325/34 of Indian Penal Code (for short 'IPC'), pending before the Court of Judicial Magistrate First Class, Bilaspur in Criminal Case No.76/2013.
2. It is submitted by learned counsel for petitioners, that a complaint was made by respondent No.2 and FIR was lodged in P.S.-Lormi against the petitioners, which was investigated and petitioners were charge-sheeted before the trial Court. Trial Court charged the petitioners with the offence under Sections 498(A) and 325/34 of IPC. During the course of trial, petitioners and respondent No.2 have compromised and resolved their disputes. Consequent to that an application under Section 320(2) of Cr.P.C. was filed before the trial Court for compounding the offences. By order dated 7.9.2016, application was allowed in part and petitioners have been acquitted of the charge leveled against the petitioners under Section 325/34 of IPC, but the trial against

the petitioners is continuing under Section 498(A) of IPC. Hence, this petition.

3. It is further submitted that offence under Section 498(A) of IPC is not compoundable, hence, looking to the observations made by 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 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.

4. Learned counsel for the State has opposed the submissions made on behalf of petitioners.
5. Both the parties are heard and perused the material on record.

1. (2012) 10 SCC 303

6. The statement of respondent No.2/complainant has been recorded by the Registry in which she has stated that all the disputes have been resolved and she and her husband/petitioner No.1 have decided to live separately and she is giving consent for composition of offence without any fear, favour and influence and she has no objection if the criminal proceedings against the petitioner is terminated.
7. Considering the statement made by the complainant/respondent No.2 and the view of the Supreme Court expressed in Gian Singh (supra) case, it appears to be a case where the inherent powers under Section 482 of Cr.P.C. can be exercised.
8. Looking to the nature of the case against the petitioner and consequent to the compromise between the parties, the fate of the criminal proceeding against the petitioner is almost decided.
9. In view of above, the petition is allowed. The proceedings against the petitioners in Criminal Case No.76/2013 is pending before the Court of Judicial Magistrate First Class, Bilaspur, is hereby quashed.
10. Accordingly, this petition stands disposed off at the motion stage.

Sd/-
(Rajendra Chandra Singh Samant)
JUDGE