

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 89 of 2018**

1. Santosh Kumar Yadav S/o Late Shree R K Yadav Aged About 31 Years
2. Ashish Kumar Yadav S/o Late Shree R K Yadav Aged About 25 Years
3. Smt Rita Yadav W/o Ramashankar Yadav Aged About 42 Years
4. Smt. Dheeraji Yadav W/o Late Shree R K Yadav Aged About 65 Years
5. Smt. Sarita Yadav W/o Sanjay Yadav Aged About 34 Years

All are R/o V I P Nagar, Risali, Police Station Nevai District Durg,
Chhattisgarh., District : Durg, Chhattisgarh

---- Petitioners**Versus**

1. State of Chhattisgarh Through Station House Officer, Police Station Nevai, District Durg, Chhattisgarh
2. Smt Kanchan Yadav W/o Santosh Yadav Aged About 26 Years At Present R/o Shahid Veer Narayan Singh Nagar, Opposite Bansal Commercial Company, G E Road, Khursipar, Bhilai, Tehsil And District Durg, Chhattisgarh

---- Respondents

For Petitioners	:	Shri B.P. Singh, Advocate
For Respondent No.1/State	:	Ms. Astha Shukla, PL for the State
For Respondent No.2	:	Shri K.R. Loniya, Advocate

Hon'ble Shri Justice Goutam Bhaduri**Order On Board****07/02/2018**

1. The instant petition is against the order dated 27.11.2017, passed by the JMFC, Durg in criminal case No.860/2015 whereby an application filed 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. has been dismissed.
2. The complainant Smt Kanchan Yadav, respondent No.2 herein was married

with Santosh Kumar Yadav on 23.01.2013 and thereafter a report was made by the complainant in the Police Station Nevai, which was registered under Section 498-A read with Section 34 of the I.P.C. bearing Crime No.152/2014. Thereafter, after the investigation, the charge-sheet was filed. During the course of trial an application was filed by the petitioners as also the complainant, whereby it was pleaded that mutual settlement has been arrived at in between the parties and the application for mutual divorce has also been filed.

3. 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

¹ (2012) 10 SCC 303

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. 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.

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

² (2003) 4 SCC 675

Code.”

5. 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.
6. Complainant Smt. Kanchan Yadav is present before the Court, she having been asked by the State counsel expressed that the entire amount of the settlement has been received by her and the application for mutual divorce is already pending, therefore, she do not want to prosecute the criminal case No.860/15 arising out of crime No.152/2014 at Police Station Nevai, District Durg. Statement of the victim shows that she has compounded the offence and she do not want further action against the petitioners.
7. 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. in criminal case No.860/15. Accordingly, the charges leveled against the petitioners under Section 498-A read with Section 34 of the I.P.C. are quashed. The petitioners are acquitted of the charges leveled against them.
8. Accordingly, the CRMP stands allowed.

Sd/-

Goutam Bhaduri
Judge

Ashu