

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 155 of 2018

1. Rakhi Sharma W/o Viplov Sharma Aged About 32 Years At Present Permanent Address of Applicant No. 1 Near Sani Provision Store, 27 Kholi Bilaspur Distt. Bilaspur Chhattisgarh.
2. Gendlal Dubey S/o Late Mahesh Prasad Dubey Aged About 64 Years At Present Permanent Address of Applicant No. 2 Near Sani Provision Store, 27 Kholi Bilaspur Distt. Bilaspur Chhattisgarh.
3. Bhavesh Dubey S/o Gendlal Dubey Aged About 36 Years At Present Permanent Address of Applicant No. 3 Near Sani Provision Store, 27 Kholi Bilaspur Distt. Bilaspur Chhattisgarh.
4. Achyut Keshar Dubey S/o Gendlal Dubey Aged About 37 Years At Present Permanent Address of Applicant No. 4 Near Sani Provision Store, 27 Kholi Bilaspur Distt. Bilaspur Chhattisgarh.
5. Rekha Dubey (Tiwari) W/o Shri Gourishankar Tiwari Dubey, Aged About 30 Years R/o Govt. Primary School Shaila, Tahsil Pali, Distt. Korba, District : Korba, Chhattisgarh

--- Petitioners

Versus

Viplov Sharma S/o Shiv Kumar Sharma Aged About 36 Years R/o Viplov Sadan Santoshi Chowk Kushalpur Raipur Distt. Raipur Chhattisgarh, District : Raipur, Chhattisgarh

--- Respondent

For the applicants	:	Mr. Mr. Vivek Sharma, Advocate
For the non-applicant	:	Mr. Amiyakant Tiwari, Advocate

Hon'ble Shri Justice Goutam Bhaduri

ORAL ORDER

04.05.2018

1. The present petition is to quash the Criminal Complaint Case No. 102/2011 pending before the JMFC, Raipur.
2. Learned counsel for the parties submits that applicant Rakhi Sharma was married to respondent Viplov Sharma and their marriage could not go long and report and counter report including this complaint was lodged by the respondent.

3. It is submitted that during the pendency of the proceeding, compromise has been arrived at between the parties and the respondent has agreed to withdraw the Complaint Case No. 102/2011 against the applicants. Likewise compromise was also effected whereby the proceeding arose out of FIR No. 355/2010 registered under section 495-A read with section 34 of IPC at Purani Basti was quashed by a common order dated 05.10.2017 passed by this Court in CRR No.896/2014 & CRR No. 688/2015.
4. Both the counsels relies on the settlement arrived at between the parties and referred to the proceeding of mediation dated 18.08.2017 especially para 2 of such agreement.
5. The Supreme Court in case of ***Gian Singh Vs. State of Punjab and Another***, reported in ***(2012) 10 SCC 303*** while exercising the power under Section 482 has laid down the preposition that power to quash the proceeding under Section 482 is plenary in nature, which is not arrested by the provisions contained in Section 320 of Cr.P.C. Paras 57 & 58 of the said decision are relevant here and quoted below:

“57. Quashing of offence or criminal proceedings on the ground of settlement between an offender and victim is not the same thing as compounding of offence. They are different and not interchangeable. Strictly speaking, the power of compounding of offences given to a court under Section 320 is materially different from the quashing of criminal proceedings by the High Court in exercise of its inherent jurisdiction. In compounding of offences, power of a criminal court is circumscribed by the provisions contained in Section 320 and the Court is guided solely and squarely thereby while, on

the other hand, the formation of opinion by the High Court for quashing a criminal offence or criminal proceeding or criminal complaint is guided by the material on record as to whether the ends of justice would justify such exercise of power although the ultimate consequence may be acquittal or dismissal of indictment.

58. Where the High Court quashes a criminal proceeding having regard to the fact that the dispute between the offender and the victim has been settled although the offences are not compoundable, it does so as in its opinion, continuation of criminal proceedings will be an exercise in futility and justice in the case demands that the dispute between the parties is put to an end and peace is restored; securing the ends of justice being the ultimate guiding factor. No doubt, crimes are acts which have harmful effect on the public and consist in wrongdoing that seriously endangers and threatens the well-being of the society and it is not safe to leave the crime-doer only because he and the victim have settled the dispute amicably or that the victim has been paid compensation, yet certain crimes have been made compoundable in law, with or without the permission of the court. In respect of serious offences like murder, rape, dacoity, etc., or other offences of mental depravity under IPC or offences of moral turpitude under special statutes, like the Prevention of Corruption Act or the offences committed by public servants while working in that capacity, the settlement between the offender and the victim can have no legal sanction at all. However, certain offences which overwhelmingly and predominantly bear civil flavour having arisen out of civil, mercantile, commercial, financial, partnership or such like transactions or the offences arising out of matrimony, particularly relating to dowry, etc. or the family dispute, where the wrong is basically to the victim and the offender and the victim have

settled all disputes between them amicably, irrespective of the fact that such offences have not been made compoundable, the High Court may within the framework of its inherent power, quash the criminal proceeding or criminal complaint or FIR if it is satisfied that on the face of such settlement, there is hardly any likelihood of the offender being convicted and by not quashing the criminal proceedings, justice shall be casualty and ends of justice shall be defeated. The above list is illustrative and not exhaustive. Each case will depend on its own facts and no hard-and-fast category can be prescribed.”

6. Taking into consideration the law laid down by the Supreme Court in *Gyan Singh Vs. State of Punjab (supra)* and the fact that the parties have arrived at compromise and the matrimonial dispute has been settled through the mediation, I am of the view that ends of justice would be secured if the proceeding of complaint case No. 102/2011 is quashed.
7. Accordingly, the petition is allowed. The proceeding of Criminal Complaint Case No. 102/2011 pending before the JMFC, Raipur for the offence punishable u/ss 389, 506 read with section 34 of IPC is hereby quashed. The applicants are acquitted of the charges.

Sd/-
GOUTAM BHADURI
JUDGE