

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 1644 of 2017**

1. Tameshwar Sinha S/o Rohidas Sinha Aged About 23 Years R/o Village Bade Gori, Tehsil & P. S. Charama, District Uttar Bastar Kanker, Chhattisgarh,
2. Rohidas Sinha S/o Eitvariram Sinha Aged About 70 Years R/o Village Bade Gori, Tehsil & P. S. Charama, District Uttar Bastar Kanker, Chhattisgarh.
3. Sohanlal Sinha, S/o Rohidas Sinha Aged About 31 Years R/o Village Bade Gori, Tehsil & P. S. Charama, District Uttar Bastar Kanker, Chhattisgarh.
4. Jain Bai W/o Rohidas Sinha Aged About 60 Years R/o Village Bade Gori, Tehsil & P. S. Charama, District Uttar Bastar Kanker, Chhattisgarh.
5. Janki Bai, W/o Sohanlal Sinha Aged About 28 Years R/o Village Bade Gori, Tehsil & P. S. Charama, District Uttar Bastar Kanker, Chhattisgarh. --- **Petitioners**

Versus

1. State of Chhattisgarh through Police Station P. S. Charama, District Uttar Bastar Kanker, Chhattisgarh.
2. Sewti Sinha W/o Tameshwar Sinha, Aged About 28 Years R/o Village Bade Gori, Tehsil & P. S. Charama, District Uttar Bastar Kanker, Chhattisgarh , --- **Respondents**

For Petitioners : Mr. Shobhit Koshta, Advocate
 For Respondent No.1/State : Mr. Adhiraj Surana, Dy. G.A.

Hon'ble Shri Justice Goutam Bhaduri**Order On Board****27.03.2018**

1. The instant petition is against the judgment dated 28.10.2017 passed by the Sessions Judge, Uttar Bastar, Kanker, in Criminal Appeal No.07/2017 whereby the application preferred under section 320 sub-section (5) of the Criminal Procedure Code by the petitioners as also respondent No.2

the complainant to compound the offence under section 498 A of IPC read with Section 4 of the Dowry Prohibition Act was dismissed.

2. As per the prosecution case, respondent No.2 Sewti Sinha was married to Tameshwar Sinha (Petitioner No.1 herein) in the year 11.05.2011. Thereafter, after 8 months she lodged a report against the petitioners for subjecting her to harassment and cruelty whereby the offence was registered u/s 498-A of IPC and section 4 of the Dowry Prohibition Act. After investigation, the charge sheet was filed before the Court of CJM, Uttar Baster, Kanker and thereafter, the petitioners herein were convicted by order dated 07.09.2017 passed in Criminal Case No.225 of 2012 and sentenced to undergo R.I. for two years each under section 498-A of IPC and to pay a fine of Rs.2000/-, in default of payment of further 15 days additional jail sentence was awarded. The petitioners were further sentenced to undergo R.I. for one year each under section 4 of the Dowry Prohibition Act and to pay a fine of Rs.2000/-, in absence of payment of fine, they were further directed to undergo additional jail sentence of 15 days. The said order of conviction and sentence was subject of challenge before the Sessions Judge, Kanker. During the pendency of this appeal, an application under sub-section (5) of section 320 of Cr.PC., was filed on the ground that certain compromise has been effected between the parties and because of the compromise the wife is residing along with the husband i.e., Tameshwar Sinha, therefore, the conviction and sentence of the petitioners may be set aside.

3. Learned counsel for the petitioners submits that the statement of the wife was recorded before the Additional Registrar (Judicial) wherein she has categorically stated that despite knowing the fact that the petitioners have been sentenced and the appeal is pending, the complainant do not want to further prosecute her cause as the compromise has been effected. Therefore, he submits that the offence registered u/s 498-A IPC read with section 4 of Dowry Prohibition Act may be quashed.
4. A perusal of the record would show that the application was filed before the appellate Court under sub-section (5) of Section 320 of Cr.P.C. and the statement of respondent No.2 wife Sewti Sinha was recorded before the Addl. Registrar (Judicial) wherein she has deposed that during the pendency of appeal, she has entered into compromise and she do not want to further continue with her complaint.
5. Hon'ble the 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

1 (2012) 10 SCC 303

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 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.

6. Further, in case of *B.S. Joshi & others V. State of Haryana (2003) 4 SCC 675* the Supreme Court has held as under:

“14. There is no doubt that the object of introducing Chapter XX-A containing section 498-A in the Indian Penal Code was to prevent the torture to a woman by her husband or by relatives of her husband. Section 498-A 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 the 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.

7. Here in the present case, the complainant has categorically stated she do not do not want to continue with her cause and the complaint u/s 498-A of IPC and sections 3 & 4 of the Dowry Prohibition Act which has led to initiation of proceedings vide Criminal Case No.225/2012 wherein the conviction and sentence was awarded. The statement of the victim recorded before the Additional Registrar (Judicial) would show that she has entered into compromise and she do not want to take any further action against the petitioners.
8. The principles laid down by the Supreme Court clearly leads to an irresistible conclusion that in a case if the dispute arose out of a matrimonial nature where the wrong is basically private or personal in nature and the offence has no serious impact on the society and parties have amicably settled their dispute, the High Court may quash the criminal proceedings. Therefore, taking into consideration the fact that in the application and the statement recorded before the Sessions Judge as also before the Addl. Registrar (Judicial), the complainant has categorically stated that she has developed cordial relations with her in-laws and wanted to stay along-with her husband I am of the opinion that it is a case of matrimonial dispute where the offence involved is purely private in nature and has no serious impact on the Society. Therefore, in order to secure the ends of justice, I am inclined to quash the proceedings u/s 498-A of IPC read with section 4 of the Dowry Prohibition Act.
9. In the result, the petition is allowed. The conviction and sentence imposed against the petitioners u/s 498-A of IPC and

section 4 of Dowry Prohibition are set aside and they are acquitted of the charges. Consequently, the entire proceedings of Crime No.56 of 2012 registered at Police Station Charama Distt. Uttar Bastar, Kanker stands quashed.

**Sd/-
(Goutam Bhaduri)
Judge**

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