

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 1629 of 2017**

1. Shri Ramavtar Nadia S/o Shri B. R. Nadia, Aged About 54 Years
2. Smt. Rajkumari Nadia, W/o Ramavtar Nadia, Aged About 50 Years
3. Priyanka Nadia, W/o Kishore Raj D/o Ramavtar Nadia, Aged About 27 Years

All are R/o 6 B Old Khedapati Colony Padav, District Gwalior, Madhya Pradesh

4. Manoj Bajoria, S/o Shri A. R. Bajoria, Aged About 38 Years R/o 24 Sharda Vihar, City Center, Police Station Jiwaji University, Gwalior, District Gwalior, Madhya Pradesh

---- **Petitioners****Versus**

1. Ashok Raj S/o Shri Shankar Lal Raj, Aged About 38 Years R/o Adarsh Nagar, Charoda, Police Station Bhilai 03, Tehsil Patan, District Durg, Chhattisgarh
2. State of Chhattisgarh, Through Station House Officer, Old Bhilai, District Durg, Chhattisgarh

---- **Respondents****CRMP No. 295 of 2018**

- Kishore Kumar Raj S/o Shankar Lal Raj Aged About 32 Years R/o Adarsh Nagar, Charoda, Police Station Bhilai-3, District Durg Chhattisgarh

---- **Petitioner****Versus**

1. State of Chhattisgarh Through the Station House Officer, Police Station Purani Bhilai, District Durg Chhattisgarh
2. Smt. Priyanka Nadiya W/o Kishore Raj aged about 29 years, R/o 16/b, Khedapati Colony, Gwalior, Tahsil And District Gwalior Madhya Pradesh

---- **Respondents**

For Petitioners in CRMP 1629 of 2017 : Shri Avinash Chand Sahu, Advocate with
Shri Anmol Khedkar, Advocate

For Petitioner in CRMP 295 of 2018 : Shri V.K. Sahu, Advocate

For Respondent-State : Ms. Astha Shukla, PL for the State

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

06/04/2018

1. Both the CRMPs are being heard together.
2. CRMP No.295/2018 is filed by Kishore Kumar Raj to quash the proceedings under Section 498-A IPC which is pending adjudication and criminal case bearing No.623/2014 before the Court of JMFC, Bhilai-3, District Durg. CRMP No.1629/2017 is filed by Ramavtar Nadia, Smt. Rajkumari Nadia, Priyanka Nadia and Manoj Bajoria to quash the proceedings under Section 452, 294 & 506-B IPC for quashing the complaint bearing No.2476/2015 against the petitioners.
3. Brief facts of this case are that Priyanka Nadia was married to Kishore Kumar Raj (petitioner in CRMP 295/2018) in the year 2013. Thereafter, both the husband and wife could not go along with the marriage and on 29.09.2014 an FIR was lodged by Priyanka Nadia, on which a criminal case was registered under Section 498-A IPC and after investigation charge-sheet was filed in criminal case No.623/2014 pending before the JMFC, Bhilai-3, District Durg. In the offshoot of such report a complaint was registered by one Ashok Raj, brother of Kishore Kumar Raj against Ramavtar Nadia, Smt. Rajkumari Nadia, Priyanka Nadia and Manoj Bajoria on 05.11.2014, whereby an offence under Sections 452, 294 & 506 B was registered.

4. Learned counsel for the parties would submit that during the pendency of these petitions, both the parties entered into compromise and statement of Priyanka Nadia was recorded, who was the complainant in a case under Section 498-A IPC and stated that she do not want to further prosecute her report/complaint against her husband and since compromise has been effected as such she do want to continue criminal case bearing No.623/2014 and the proceedings be dropped. Likewise the complainant Ashok Raj also recorded his statement before the Additional Registrar (J) that the compromise has been effected in between the parties as both the counter cases were prevailing and it is stated that he do not want to further continue with his complaint bearing No.3/2015, therefore, proceedings be dropped.
5. Perusal of the file would show that the statement of complainant in both the cases i.e. statement of Priyanka Nadia was recorded in CRMP No.295/2018, wherein she has stated that she do not want to further prosecute her complaint registered as FIR No. 0405/2014 under Section 498-A IPC and the criminal case bearing No.623/2014 before JMFC, Bhilai-3, as compromise has been effected. Likewise, statement of Ashok Raj recorded in CRMP No.1629/2017, wherein he has stated that during the pendency of the proceedings settlement has been arrived at and he do not want to prosecute his complaint under Sections 452, 294 & 506 B IPC.
6. 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

¹ (2012) 10 SCC 303

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 predominately 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.

7. 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.”

8. Taking into the statements of the complainant in both the cases since both the cases are inter se/inter linked to each other and the complainant in both the criminal cases have stated that they do not want to continue with their complaint and considering the background and the nature of the case as the complaint appears to be private in nature, I am inclined to quash the proceedings of both the cases i.e. criminal case no. 623/2014 pending against Kishore Kumar Raj under Section 498-A IPC before the JMFC, Bhilai-3 as also the criminal complaint bearing No.3/15 pending before the JMFC, Bhilai-3 under Sections 452, 294 & 506 B IPC against Shri Ramavtar Nadia, Smt. Rajkumari Nadia, Priyanka Nadia and Manoj Bajoria. Accordingly, criminal cases pending against both the parties are quashed, which have been more particularly stated herein above.
9. Accordingly, both the CRMPs are allowed. The petitioners are acquitted of the charges leveled against them.

Sd/-

Goutam Bhaduri
Judge

Ashu