

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 690 of 2018

1. Javed Akhtar S/o Iftekhar Ahmad Aged About 30 Years R/o- Hasan Manjil, Shastri Chowk, Rumi Baba Majar, Kela Badi, Durg, District- Durg, Chhattisgarh.
2. Iftekhar Ahmad S/o Haji Nasiruddin Aged About 63 Years R/o- Hasan Manjil, Shastri Chowk, Rumi Baba Majar, Kela Badi, Durg, District- Durg, Chhattisgarh.
3. Smt. Shaesta W/o Iftekhar Ahmad Aged About 53 Years R/o- Hasan Manjil, Shastri Chowk, Rumi Baba Majar, Kela Badi, Durg, District- Durg, Chhattisgarh.
4. Smt. Nazia Tarammun W/o Javed Akhtar Aged About 24 Years R/o- Near Minorities School, Tarkheda, Amrawati (Maharashtra), District : Amravati, Maharashtra **--- Petitioners**

Versus

State of Chhattisgarh through- Station House Officer, Police Station Supela, District- Durg, Chhattisgarh. **--- Respondent**

For the applicants	:	Mr. P. Chetan Kumar, Advocate.
For the Respondent	:	Mr. Sangharsh Pandey, Govt. Adv.

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

19.06.2018

1. The instant petition is against the order dated 05.03.2018 passed by the JMFC, Durg, whereby the application which was filed u/s 320 sub-section (2) of the Code of criminal Procedure to compound the offence u/ss 498-A, 294, 506 Part II, 323 of IPC and sections 3 & 4 of the Dowry Prohibition Act has been partly allowed. By the said order dated 05.03.2018 the learned trial Court has acquitted the petitioners under sections 294, 506 (Part II) and 323 of IPC, however, the petitioners are directed to face trial for the offence under sections 498-A of IPC and sections 3 & 4 of

the Dowry Prohibition Act as they are non-compoundable offences.

2. As per the case of the complainant, petitioner No.4 Smt. Nazia Tarammum was married to Petitioner No.1 Javed Akhtar on 05.01.2014 and Petitioners 2 & 3 are father-in-law and mother-in-law. It is alleged that after about 2 years of the marriage, a complaint was lodged by the wife that she was subjected to physical and mental cruelty on various grounds and on a report being made, crime was registered, the charge sheet was filed and thereafter the trial has commenced u/ss 294, 323, 506 (Part-II), 34, 498-A of IPC and Sections 3 & 4 of the Dowry Prohibition Act.
3. It is contended that during the pendency of the proceeding before the court below, the parties have amicably settled the dispute and the wife do not want to further continue with her complaint/grievance and it is stated that the wife and husband want to lead further marital life and they will stay together after settlement of the criminal case.
4. Perused the statement of the wife (Petitioner No.4 herein) wherein she has stated that on a report being lodged by her, Crime No.646/2014 was registered for the offences punishable u/ss 498-A, 294, 506 (Part-II), 323 of IPC and sections 3 & 4 of Dowry Prohibition Act and thereafter Criminal Case bearing No.6887/2014 was registered which is pending before the JMFC, Durg. It has been further stated that Petitioner No.4, i.e., complainant/wife has compounded the offence and she do not want to further prosecute her report as well as the proceedings of Crime No.646/2014 and criminal case No.6887/2014 which is

pending before the JMFC, Durg.

5. Learned Counsel for the petitioners submits that after decision of the case, the husband and wife will stay together and on that ground, compounding of offence has been made and the wife has decided not to prosecute her report.

6. The Hon'ble Supreme Court in **Gian Singh v. State of Punjab & Another¹** 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

¹ (2012) 10 SCC 303

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.”

7. 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.”

8. 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 the parties have resolved their entire dispute, the High Court may quash the criminal proceedings.
9. Considering the submission made and after perusal of the statement of wife Smt. Nazia Tarammum (Petitioner No.4), it appears that the complainant do not want to further prosecute her claim on the ground that she want to lead peaceful marital life with the husband after decision of the criminal case. Therefore, applying the principles laid down by the Supreme Court in *Gyan Singh V. State of Punjab* and *B.S. Joshi Vs. State of Haryana (Supra)* and considering the inter-se relations between the parties, it would be just and proper to quash the proceedings of Criminal case No. 6887/ 2014 pending before the JMFC, Durg, relating to Crime No.

646/2014.

10. In the result, the petition is allowed. The proceedings of Criminal Case No. 6887/2014 pending before the JMFC, Durg for the offence u/s 498-A read with section 34 of IPC and Sections 3 & 4 of the Dowry Prohibition Act against Petitioners 1 to 3 are quashed and they are acquitted of the charges under the aforesaid offences. Consequently the proceedings of Crime No.646/2014 registered at P.S. Supela, Distt. Durg also stand quashed.

**Sd/-
GOUTAM BHADURI
JUDGE**