

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CR.M.P. No. 831 of 2018**

1. Jagdish Singh Kshatri, S/o. Late Makhan Singh Kshatri, Aged About 64 Years.
2. Smt. Meera Singh Kshatri, W/o. Jagdish Singh Kshatri, Aged About 60 Years.
3. Manish Singh Kshatri, S/o. Jagdish Singh Kshatri, Aged About 29 Years.
4. Abhay Singh Kshatri, S/o. Jagdish Singh, Aged About 30 Years.
No.1 to 4 are R/o. Chadda Badi, Nehru Nagar, Bilaspur, Police Station Civil Line, Tahsil & District Bilaspur, Chhattisgarh.
5. Smt. Jyotsana Chandel, W/o. Sunil Chandel, Aged About 35 Years, R/o. P-324/5, Panchgani Apartment, DIAT Giri Nagar, Pune 25, District Pune, Maharashtra.

---- Petitioners**Versus**

1. State Of Chhattisgarh, Through Station House Officer, Police Station- Civil Line Bilaspur, District Bilaspur, Chhattisgarh.
2. Smt. Niharika Singh Kshatri, W/o. Abhay Singh Kshatri, Aged About 25 Years, R/o. New Adarsh Nagar, Borsi Road, Durg, Chhattisgarh
(Complainant)

---- Respondents

For Petitioners	:	Mr. Goutam Khetrapal, Advocate
For Respondent No.1	:	Mrs. Madhunisha Singh, Panel Lawyer
For Respondent No.2	:	Mr. Prasoon Agrawal, Advocate

Hon'ble Shri Justice Goutam Bhaduri**Order On Board****30.04.2018**

Heard

1. The present petition is to quash the proceeding of the Criminal Case No.10416/2015 which is pending before the J.M.F.C. Bilaspur under Section 498-A read with Section 34 of I.P.C. and Section 3 & 4 of Dowry Prohibition Act.
2. The facts would reveal that the respondent No.1 Smt. Niharika Singh Kshatri was married to Abhay Singh Kshatri on 21.01.2014, thereafter,

she was subjected to torture for demand of dowry and was treated with cruelty and, as such, a report was lodged by her wherein after investigation the charge sheet has been filed against the petitioners under Section 498-A read with Section 34 of I.P.C. and Section 3 & 4 of Dowry Prohibition Act. Subsequently, during pendency of the criminal proceedings, both husband & wife i.e. petitioner Abhay Singh & Smt. Niharika Singh could not go along, as such, an application for divorce was filed under Section 13(B) of Hindu Marriage Act and during pendency of the proceedings, the parties entered into compromise and an agreement is also placed on record wherein it is stated that both husband & wife have decided to live separately and by way of settlement an amount of Rs.8 Lakhs have been settled out of which Rs.6 Lakhs have been paid and the remaining amount of Rs.2 Lakhs have been paid at the time of grant of decree of divorce which is pending adjudication.

3. The petitioners namely Jagdish Singh Kshatri, Smt. Meera Singh Kshatri, Manish Singh Kshatri & Abhay Singh Kshatri and the complainant Smt. Niharika Singh Kshatri are present in person before the Court. On being enquired by the State counsel, the complainant contended that she has compromised the issue and she do not want to continue her complaint against the petitioners. It has been further contended that out of the settlement amount of Rs. 8 Lakhs, she has received Rs. 6 Lakhs and the remaining amount of Rs.2 Lakhs would be paid at the time of grant of decree for mutual divorce which is pending adjudication.
4. The Hon'ble Supreme Court in **Gian Singh v. State of Punjab & Another¹** has laid down the following principles :

¹ (2012) 10 SCC 303

“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 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.

5. Further, in case of ***Parbatbhai Aahir @ Parbatbhai Bhimsinhbhai Karmur & Ors. v. State of Gujarat & Ors.***² 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

² (2017) 9 SCC 641

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.

6. Considering the submission made by the parties primarily that of the complainant Smt. Niharika Singh Kshatri wherein she categorically stated that she do not want to continue her complaint in Criminal Case No.10416/2015 pending before the J.M.F.C. Bilaspur for the offence under Section 498-A read with Section 34 of I.P.C. and Section 3 & 4 of Dowry Prohibition Act and taking into the principles laid down, no useful purpose would be served in continuing with the criminal case; as such, considering the facts of this case, I am inclined to quash the proceedings of criminal case, which is pending before the JMFC Bilaspur.
7. Accordingly, the petition is allowed and the proceedings of Criminal Case No.10416/2015 for the offence under Section 498-A read with

Section 34 of I.P.C. and Section 3 & 4 of Dowry Prohibition Act pending before the J.M.F.C. Bilaspur are quashed. The petitioners are acquitted of the charges under Section 498-A read with Section 34 of Indian Penal Code and Section 3 & 4 of the Dowry Prohibition Act. It is made clear that the petitioners shall oblige to pay an amount of Rs.2 Lakhs to the complainant as has been agreed at the time of passing of final decree.

Sd/-
(Goutam Bhaduri)
Judge

Ashok