

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPCR No. 191 of 2017

1. Pawan Singhaniya S/o Late Shri Ram Gopal Singhaniya Aged About 55 Years R/o Darri Raod, Korba, Revenue & Civil District- Korba, Chhattisgarh (Father-In-Law)
2. Smt. Saroj Singhaniya W/o Shri Pawan Singhaniya Aged About 50 Years Mother-In- Law R/o Darri Raod, Korba, Revenue & Civil District- Korba, Chhattisgarh (Mother in Law)
3. Rakesh Singhaniya S/o Shri Pawan Singhaniya Aged About 28 Years R/o Darri Raod, Korba, Revenue & Civil District- Korba, Chhattisgarh Brother-In-Law, District : Korba, Chhattisgarh (Brother in Law)
4. Anand Singhaniya S/o Shri Pawan Singhaniya Aged About 23 Years R/o Darri Raod, Korba, Revenue And Civil District- Korba, Chhattisgarh (Brother-In-Law)
5. Shambhu Singhaniya S/o Late Shri Ram Gopal Singhaniya Aged About 55 Years R/o Darri Raod, Korba, Revenue & Civil District- Korba, Chhattisgarh Paternal (Uncle-In-Law).

--- **Petitioners**

Versus

1. State of Chhattisgarh through Secretary Department of Home Affairs Police, Mahanadi Bhawan, Naya Raipur, District- Raipur, Chhattisgarh,
2. Superintendent of Police, Raigarh, District- Raigarh, Chhattisgarh,
3. Station House Officer, Police Station City Kotwali Raigarh, District- Raigarh, Chhattisgarh
4. Smt. Sapna Singhaniya Before Marriage Known As, Sapna Mittal, Wife, W/o Shri Rajesh Singhaniya, D/o Shri Pawan Mittal, Aged About- 30 Years, R/o Maal Dhakka Raod Raigarh, Tehsil- Raigarh, Revenue & Civil District- Raigarh, Chhattisgarh,

--- **Respondents**

For Petitioners	:	Mr. Sanjay Agrawal, Adv.
For Respondent No.1 to 3/State:	:	Mr. Ashish Shukla, Govt. Adv.
For Respondent No.4	:	Mr. Avinash Sahu, Advocate

WPCR No. 210 of 2017

Rajesh Singhaniya S/o Shri Pawan Singhaniya, Aged About 31 Years
Husband , R/o Darri Road, Korba, Revenue And Civil District Korba
Chhattisgarh. --- **Petitioner**

Versus

1. State of Chhattisgarh Through Secretary Department Of Home Affairs
Police , Mahanadi Bhawan, Naya Raipur, District Raipur Chhattisgarh.,
2. Superintendent of Police, Raigarh, District Raigarh Chhattisgarh.,
3. Station House Officer, Police Station City Kotwali, Raigarh, District
Raigarh Chhattisgarh.
4. Smt. Sapna Singhaniya W/o Shri Rajesh Singhaniya, Aged About 30
Years Before Marriage Known As, Sapna Mittal , Wife , D/o Shri
Pawan Mittal, R/o Maal Dhakka Road Raigarh, Tehsil Raigarh,
Revenue & Civil District Raigarh Chhattisgarh. --- **Respondents**

For Petitioners	:	Mr. Surfaraj Khan, Adv.
For Respondent No.1 to 3/State:	:	Mr. Ashish Shukla, Govt. Adv.
For Respondent No.4	:	Mr. Avinash Sahu, Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

09.03.2018

1. Both the petitions are heard together as the facts and law
involved in these cases are one and the same and they are
decided by this common order.
2. This petition is for quashing the FIR 198/2017 dated
14.04.2017 which stands registered u/s 498 read with section
34 of IPC. One petition is preferred by the father-in-law
Pawan Singhaniya, mother in law Saroj Singhaniya, brother-
in- laws Rakesh Singhanian & Anand Singhaniya and Shambhu
Singhaniya and another petition being No. W.P(Cr)

No.210/2017 is preferred by Rajesh Singhaniya (husband) of respondent No.4 Smt. Sapna Singhaniya (Sapna Mittal).

3. As per the complaint made by respondent No.4, the marriage of complainant was solemnized with Rajesh Singhaniya on 02.05.2014 and out of the wedlock, a child was born namely Vaibhav Singhaniya. Thereafter the marriage could not go a long, as such, the FIR was lodged on 14.04.2017 against the petitioners that the respondent is being subjected to cruelty and the offence u/s 498-A read with section 34 of IPC was registered. During the course of proceeding, learned counsels for parties submit that the parties have entered into compromise and respondent No.4 Smt. Sapna Singhaniya has received an amount of Rs.6 lakhs and further Rs.5 lakhs would be paid after settlement of the cases and further it was agreed that petitioner Rajesh Singhaniya would not claim any paternity right or custody of the child namely Vaibhav Singhaniya. It is further submitted that one case filed by Pawan Kumar Mittal which is pending against Sambhu Singhaniya shall also be compromised and taken back. The parties have enclosed the mediation report wherein the compromise has been arrived at between of the parties.
4. Smt. Sapna Singhaniya (Sapna Mittal) and Pawan Kumar Mittal are present before the Court. They expressed that they have agreed and settled the dispute according to the compromise recorded before the Mediator which has been placed on record and Complainant Sapna Singhaniya do not

want to prosecute her complaint which stands registered u/s 498-A read with section 34 of IPC. Like wise, Shri Pawan Mittal who is also present would submit that he has also agreed to abide by the terms of the compromise which is arrived at during the mediation.

5. With respect to compounding the offence, Hon'ble the Supreme Court in *Gian Singh v. State of Punjab & Another reported in (2012) 10 SCC 303* has laid down the following principles :

“61. The position that emerges from the above discussion can be summarized 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 pre-dominantly 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 *Parbatbhai Aahir @ Parbatbhai*

Bhimsinhbhai Karmur & Ors. in Criminal Appeal No.1723 of 2017 their Lordship summarized the principles laid down in ***Gian Singh*** (supra) 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 recognizes 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 misdemeanor. The consequences of the act complained of upon the financial or economic system will weigh in the balance.

7. Taking into consideration the settlement arrived at between the parties before the Mediator, which forms part of this record, it appears that no purpose would served to further continue the proceedings against the petitioners as the complainant (respondent No.4 herein) do not want prosecute her complaint. Considering the nature of dispute and the compromise reached between the parties and further following the dictum laid down by the Supreme Court as stated above, I am inclined to quash the proceeding of the FIR. Accordingly, the FIR bearing No.198/2017 dated 14.04.2017 is hereby quashed. The compromise which is placed before this Court shall also form part of the order.
8. Accordingly, the petitions are disposed of.

Sd/-
GOUTAM BHADURI
JUDGE