

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 1452 of 2018**

1. Jogeshwar S/o Shri Panchram Sahu Aged About 36 Years Shiksha Karmi, R/o Village And Post Kamta, Tahsil Simga, Police Station Simga, District Baloda Bazar Bhatapara, Chhattisgarh (Petitioner - Husband)
2. Panchram Sahu S/o Manrakhan Aged About 56 Years R/o Village And Post Kamta, Tahsil Simga, Police Station Simga, District Baloda Bazar Bhatapara, Chhattisgarh (Petitioner - Father In Law)
3. Ramnaresh Sahu S/o Manrakhan Aged About 58 Years R/o Village And Post Kamta, Tahsil Simga, Police Station Simga, District Baloda Bazar Bhatapara, Chhattisgarh (Petitioner - Father In Law - Uncle Of The Husband)
4. Daupadi Bai W/o Panchram Aged About 54 Years R/o Village And Post Kamta, Tahsil Simga, Police Station Simga, District Baloda Bazar Bhatapara, Chhattisgarh (Mother In Law)
5. Raghvendra S/o Panchram Aged About 26 Years R/o Village And Post Kamta, Tahsil Simga, Police Station Simga, District Baloda Bazar Bhatapara, Chhattisgarh (Petitioner - Brother In Law)
6. Vimleshwari Sahu W/o Lalaram Sahu Aged About 28 Years R/o Village Balsamund, Police Station Bemetara, District Bemetara, Chhattisgarh (Petitioner - Sister In Law)

---- Petitioners**Versus**

1. State of Chhattisgarh Through Police Station Bemetara, District Bemetara, Chhattisgarh
2. Rani @ Laxmi Sahu W/o Jogeshwar Sahu Aged About 30 Years R/o Village Jevri, Police Station And Tahsil Bemetara, District Bemetara, Chhattisgarh (Complainant),

---- Respondents

For Petitioners	:	Shri Manoj Pranjpe, Advocate
For Respondent/State	:	Ms. Astha Shukla, PL for the State
For Respondent No.2	:	Shri Amit Kumar Sahu, Advocate

Hon'ble Shri Justice Goutam Bhaduri**Order On Board****13/08/2018**

1. The instant petition is against the order dated 05.07.2018 whereby the application filed u/s 320(2) of the Code of Criminal Procedure for compounding the offence under Section 498 A IPC was dismissed.
2. As per the case of prosecution, respondent No.2 was married to the petitioner no. 1 Jogeshwar on 10.05.2014. Thereafter, their marital relations could not go long and eventually the report was made by respondent no.2 wife under section 498-A on the ground that she was subjected to cruelty which led to registration of crime No.320/17 and thereafter the charge sheet was filed in Criminal Case No.1036/17 pending before the CJM, Bemetara.
3. It is contended that during the pendency of criminal case before the trial Court, the parties have mutually entered the compromise and have compounded the offence and the complainant has made a statement that she do not want to continue with the complaint u/s 498-A of IPC and she do not want to further prosecute her criminal case against the petitioners. It is further submitted that a mutual divorce petition has also been filed, therefore, no purpose would be served to continue the proceedings of the criminal case and the statements were also recorded before the Additional Registrar (Judicial).
4. Perused the statement of the parties recorded before the Additional Registrar (Judicial) wherein respondent No.2 Rani @ Laxmi Sahu has categorically stated that she has received an amount of Rs.2,75000/- and has entered into

compromise and she do not want to continue with the complaint against the petitioners and it is further stated that compromise has been effected without any fear or undue influence.

5. 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 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

1 (2012) 10 SCC 303

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. Further, in case of ***Parbatbhai Aahir @ Parbatbhai Bhimsinhbhai Karmur*** 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. Considering the submission made and the statement of the complainant wherein she has categorically stated that she do not want to further prosecute her complaint/criminal proceedings against the petitioners herein as also taking into the nature of dispute and further following the principles laid down by the Supreme Court as cited above, I am inclined to quash the complaint and the criminal proceedings against the petitioners.
9. In the result the petition is allowed. The proceedings of Criminal Case No.1036/2017 pending before the Court of Chief Judicial Magistrate, Bemetara against the petitioners and that of crime No.320/17 registered at P.S. Bemetara for the offence punishable under section 498-A of IPC read with Section 4 of the

Dowry Prohibition Act is hereby quashed. The petitioners are acquitted of the charges leveled against them.

Sd/-

Goutam Bhaduri
Judge

Ashu