

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 944 of 2012**

1. Mahesh Goyal S/o Madan Goyal Aged About 36 Years R/o T.P. Nagar, P.S. Kotwali, Post Korba, Distt. Korba Chhattisgarh
2. Mukesh Goyal S/o Madan Goyal Aged About 39 Years R/o T.P. Nagar , P.S. Kotwali, Post Korba , Distt. Korba, Chhattisgarh
3. Gyarsi Agrawal S/o Madan Goyal Aged About 60 Years R/o T.P. Nagar , P.S. Kotwali, Post Korba, District : Korba, Chhattisgarh
--- **Petitioners**

Versus

1. State of Chhattisgarh S/o through - P.S. City Kotwali, Distt. Janjgir Champa, Chhattisgarh
2. Sapna Goyal W/o Mahesh Goyal Aged About 29 Years R/o Gandhi Ganj , P.S. City Kotwali, Distt. Raigarh C.G. , District : Raigarh, Chhattisgarh
--- **Respondent**

For Petitioner	:	Mrs. Sharmila Singhai, Advocate
For Respondent No.1/State	:	Mr. Sangharsh Pandey, Dy, G.A.
For respondent No.2	:	Mrs. Hamida Siddiqui, Advocate

Hon'ble Shri Justice Goutam Bhaduri**Order On Board****03.5.2018**

1. The instant petition is against the order dated 02.11.2012 passed by the Chief Judicial Magistrate, Raigarh in Criminal Case No.1774/2012 whereby the applications filed u/s 320(1) & 320(2) of the Code of Criminal Procedure were dismissed.
2. As per the case of prosecution, Petitioner No.1 Mahesh Goyal was married to Sapna on 31.05.2010. Subsequently they could not go long with the marriage and eventually a report was made by the complainant on 30.01.2012 that she was subjected to cruelty and on the said report Crime no.91/2012 was registered u/s 498-A read with section 34 of IPC and

thereafter the charge sheet was filed before the JMFC, Raigarh where the Criminal Case No.1774/2014 is pending.

3. During the pendency of criminal case, applications u/s 320(1) and 320(2) of Cr.P.C., were filed by the complainant Sapna as also by the accused stating that they have settled the issue amicably outside the Court and they have entered into compromise without fear or pressure and the complainant do not want to further continue the proceeding and on the basis of said compromise, application under section 13(B) of the Hindu Marriage Act has been filed (Annexure P-3) seeking divorce by mutual consent wherein it is stated that they have failed to continue their marital life therefore, they were living separately from 02.09.2011 and further there is no possibility of reunion and establishment of marital ties between them, therefore, they have mutually agreed to dissolve the marriage. The complainant has further stated that she do not want to carry on prosecution and continue proceedings of complaint against the petitioners.
4. Learned counsel for the the petitioners and learned counsel for respondent No.2 are present before the Court along-with their clients including the complainant. The complainant having been enquired by the State Counsel has stated that she understands the facts and do not want to further continue the proceedings of complaint and prosecution against the applicants and they have got separated.
5. 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 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

1 (2012) 10 SCC 303

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. Considering the submission made by learned counsel for the parties, it appears that amicable settlement has been arrived at between the parties i.e., the complainant and the accused and further considering the interse relations and the principles laid down by the Supreme Court, I am of the opinion that the ends of justice would be sub-served if the proceeding pending in Criminal Case No. 1774/2012 is quashed.
8. Accordingly, the petition is allowed and the proceeding of Criminal Case No. 1774/2012 pending before the CJM, Raigarh for the offence arising out the Crime No.91/2012 registered u/s 498-A read with section 4 of IPC is hereby quashed. The petitioners are acquitted of the charge.

Sd/-
(Goutam Bhaduri)
Judge