

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****CRMP No. 1814 of 2017**

Ku. Pritha Shukla, D/o. Shri Dhruv Kumar Shukla, Aged About 21 Years, R/o. Kaithapara, Mothers Pride School Arang, P.S. Arang District Raipur, Chhattisgarh.

---- Petitioner**Versus**

1. State Of Chhattisgarh, Through Station House Mahila Thana, Raipur, District Raipur Chhattisgarh.
2. Smt. Monika Shukla, W/o. Shri Gaurav Shukla, Aged About 30 Years, R/o. House No. 54/1024, R/o. Near Gopi STD, Shanti Vihar Colony, Daganiya, Thana D.D. Nagar, Raipur District Raipur, Chhattisgarh.

---- Respondents**&****CRMP No. 1817 of 2017**

1. Guarav Shukla, S/o. Shri Dhruv Kumar Shukla, Aged About 31 Years.
2. Dhruv Kumar Shukla, S/o. Late Shri Ramgulam Shukla, Aged About 57 Years.
3. Smt. Girija Shukla @ Jagdamba Shukla, W/o. Shri Dhruv Kumar Shukla, Aged About 51 Years.

All are R/o. Kaithapara, Mothers Pride School Arang, P.S. Arang, District Raipur, Chhattisgarh.

---- Petitioners**Versus**

1. State Of Chhattisgarh, Through Station House Mahila Thana Raipur, District Raipur, Chhattisgarh.
2. Smt. Monika Shukla, W/o. Shri Gaurav Shukla, Aged About 30 Years, R/o. House No. 54/1024, R/o. Near Gopi STD, Shanti Vihar Colony, Daganiya, Thana D.D. Nagar, Raipur, District Raipur, Chhattisgarh.

---- Respondents

For the Petitioners	:	Mr. Vinay Pandey, Advocate
For the State	:	Mr. Bhaskar Payashi, Panel Lawyer
For Respondent No.2	:	Mr. Y.C.Sharma, Advocate

Hon'ble Shri Justice Goutam Bhaduri**Order on Board****29.01.2018**

Heard.

1. Both the petitions are being heard together and decided by this common order as they are arising out of the same crime number.
2. The instant petitions are for quashing the criminal proceeding bearing No.120/2017 pending before Principal Magistrate Juvenile Justice Board Mana Camp Raipur and criminal proceeding bearing No. 3399/2017 pending before the Court of Judicial Magistrate First Class Raipur under Section 498-A read with Section 34 of Indian Penal Code and Section 3 & 4 of the Dowry Prohibition Act.
3. Learned counsel for the petitioners would submit that the respondent No.2, Smt. Monika Shukla, was married to Guarav Shukla on 06.02.2013 and thereafter they could not go along and for various reasons an FIR was lodged by the respondent No.2 at Mahila Thana Raipur, which was registered as Crime No.36/2015 and the charge sheet was filed under Section 498-A read with Section 34 of Indian Penal Code and Section 3 & 4 of Dowry Prohibition Act. He further submits that during the pendency of the proceedings, an application was filed under Section 320(2) of Cr.P.C. whereby the parties have entered into compromise through mediation and it has been settled that the parties shall lead their life separately and have decided to live separate and an amount of Rs.13 Lakhs have been decided to be paid out of which Rs. 9 Lakhs have already been paid and remaining Rs.4 Lakhs is to be paid at the time of passing of the decree of divorce before the Family Court Raipur. The respondent also affirms the same and submits that out of the settlement of Rs.13 Lakhs, Rs.9 Lakhs have been paid while Rs.4 Lakhs is to be paid while the decree of divorce is granted on a case pending before the Family Court.
4. The parties are present before the Court. The petitioners namely Guarav Shukla, Dhruv Kumar Shukla, Smt. Girija Shukla & Ku. Pritha Shukla have been identified by their counsel Mr. Vinay Pandey and

respondent Smt. Monika Shukla is also present in person who is also identified by her counsel Y.C.Sharma. On being enquired by the State counsel, she contended that she has compromised the issue and she do not want to any further prosecution on the petitioner. It has been further contended that out of the settlement amount of Rs. 13 Lakhs, Rs.9 Lakhs have already been paid.

5. 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 having overwhelmingly and predominatingly civil flavour stand on different footing for the purposes of quashing, particularly the offences arising from commercial, financial, mercantile, civil,

1 (2012) 10 SCC 303

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 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 summarized 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.

7. Considering the submission made by the learned counsel for the parties, which has been cross-checked by the learned State counsel during the course of hearing before this Court, it appears that the monetary settlement has been arrived at between the parties and only Rs.4 Lakhs remains which is to be paid at the time of passing of the decree of divorce before the Court below.
8. Considering the submission made and looking to the *inter-se* relations between the parties and applying the aforesaid principles laid down by the Supreme Court, I am of the opinion that the ends of justice would be sub-served if the proceedings pending in Criminal Case No. 120/2017 pending before Principal Magistrate Juvenile Justice Board, Mana Camp, Raipur and the proceedings pending in Criminal Case No.3399/2017 pending before Judicial Magistrate First Class Raipur are quashed. Accordingly, both the petitions are allowed and the proceedings of Criminal Case No.120/2017 & 3399/2017 whereby the offence under Section 498-A read with Section 34 of I.P.C. and Section 3 & 4 of the Dowry Prohibition Act, which arose out of the Crime No.36/2015 registered at Mahila Thana, Raipur, which has

been allowed to continue vide order dated 12.09.2017 & 05.10.2017 by the learned Court below are hereby quashed. Consequently, the Crime No.36/2015 registered at Mahila Thana Raipur also stands 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.

**Sd/-
GOUTAM BHADURI
JUDGE**

Ashok