

HIGH COURT OF CHHATTISGARH, BILASPUR

WPCR No. 264 of 2017

1. Krishan Kumar Singh S/o Late Shir Kanhaiya Lal Aged About 55 Years
R/o 97-A, Atarsuiya, Police Station Atarsuiya, Tehsil & District
Allahabad, Uttar Pradesh.
2. Smt. Lakshmi Verma W/o Shri Krishan Kumar Singh Aged About 45
Years R/o 97-A, Atarsuiya, Police Station Atarsuiya, Tehsil & District
Allahabad, Uttar Pradesh.
3. Shubhankar Singh S/o Shri Krishan Kumar Singh Aged About 21
Years R/o 97-A, Atarsuiya, Police Station Atarsuiya, Tehsil & District
Allahabad, Uttar Pradesh.,
4. Shobhita Singh D/o Shri Krishan Kumar Singh Aged About 16 Years
R/o 97-A, Atarsuiya, Police Station Atarsuiya, Tehsil & District
Allahabad, Uttar Pradesh.
5. Pradumya Singh S/o Shri Krishan Kumar Singh Aged About 14 Years
R/o 97-A, Atarsuiya, Police Station Atarsuiya, Tehsil & District
Allahabad, Uttar Pradesh. **--- Petitioners**

Versus

1. State of Chhattisgarh through its Secretary, Home Department,
Mantralaya, Mahanadi Bhawan, Naya Raipur, District Raipur,
Chhattisgarh.
2. Superintendent of Police Police Station Sarkanda, Bilaspur, District
Bilaspur, Chhattisgarh.
3. Babita Tamrakar W/o Shri Lakshman Tamrakar Aged About 38 Years
R/o Ekata Colony Near D.L.S. College, Ashok Nagar, Bilaspur,
Chhattisgarh. **--- Respondent**

For Petitioners	:	Mr. Pragalbha Sharma, Adv.
For Respondent 1 & 2/State	:	Ms. Shivali Dubey, Panel Lawyer
For Respondent No. 3	:	Mr. Tarun Dansena, Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

21.02.2019

1. By this writ petition filed under Article 226/227 of the
Constitution of India, the petitioners prays for quashing the

FIR dated 28.02.2017 bearing Crime No.148/2017 registered at Police Station Sarkanda, Bilaspur, Chhattisgarh for the offences punishable un/ss 384 & 506 IPC and section 3& 4 of Dowry Prohibition Act, 1961.

2. It is contended that there was proposal of marriage between Shubhankar Singh petitioner No.3 herein and Neha Tamrakar daughter of respondent No.3 Babita Tamrakar but the marriage could not be solemnized as there was demand of dowry coupled with other allegations. Subsequently it is submitted that the complainant and petitioners have entered into compromise and as such she do not want to continue with her complaint and proceedings of Crime No.148/2017 registered at P.S. Sarkanda, Bilaspur against the petitioners.
3. Learned Counsel appearing on behalf of respondent No.3, complainant herein, would submit that as per the instructions the complainant do not want to continue her FIR against the petitioners.
4. A perusal of the record would show that the statement of petitioner Krishna Kumar Singh and also the statement of complainant Babita Tamrakar were recorded before the Additional Registrar (Judicial). In the statement of complainant, she has stated that certain compromise was entered between the complainant and accused and according to the petitioner Krishna Kumar Singh, the complaint filed by him vide Complaint Case No.578/2017 in Addl.Chief Judicial Magistrate, Allahabad against the complainant Babita Tamrakar, her husband Laxman Tamrakar and daughter

Sneha Tamrakar was withdrawn and copy of the application and affidavit were supplied to her, therefore, she has entered into compromise without any fear or pressure and accordingly she do not want to prosecute the petitioners in pursuance of FIR dated 28.02.2017 bearing Crime No.148/2017 registered at P.S. Sarkanda, Bilaspur and she wants to close the proceedings against the petitioners.

5. In case of ***Parbatbhai Aahir @ Parbatbhai Bhimsinhbhai Karmur & Ors.*** in Criminal Appeal No.1723 of 2017 their Lordship has reiterated the view taken in ***Gian Singh v. State of Punjab and another 2012 10 SCC 303*** 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 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 misdemeanour. The consequences of the act complained of upon the financial or economic system will weigh in the balance."

6. Taking into consideration the statement of complainant and background of the case especially the nature of dispute between the parties which appears to be private in nature and the fact that no purpose would be served to continue the FIR in such circumstances, I am inclined to quash the FIR. Accordingly, the FIR dated 28.02.2017 bearing Crime No.148/2017 registered against the petitioners at Police Station Sarkanda, Bilaspur, Chhattisgarh for the offences punishable u/ss 384 & 506 IPC and section 3 & 4 of Dowry Prohibition Act, 1961 is hereby quashed.

7. In the result, the petition is allowed.

**Sd/-
(GOUTAM BHADURI)
JUDGE**