

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 612 of 2019

1. Amit Behra S/o Shri Victor Behra Aged About 31 Years R/o Jairamnagar, P.S. Masturi, District- Bilaspur, Chhattigarh., District : Bilaspur, Chhattisgarh
2. Richa Raje D/o Rajendranath Saxena Aged About 26 Years R/o Geetanjali City, Fase-2, P.S. Sarkanda, Disrtict- Bilaspur, Chhattisgarh., District : Bilaspur, Chhattisgarh
3. Smt. Sataxi Saxena W/o Rajendra Saxena Aged About 50 Years R/o Geetanjali City, Fase-2, P.S. Sarkanda, Disrtict- Bilaspur, Chhattisgarh..... Complainant In The Case., District : Bilaspur, Chhattisgarh
--- **Petitioner**

Versus

State of Chhattisgarh through P.S.- Sarkanda, District- Bilaspur,
Chhattisgarh.
--- **Respondent**

For Petitioners	:	Mr. Raj Kumar Gupta, Adv.
For Respondent-State	:	Mr. Aditya Sharma

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

18.03.2019

1. This is a joint petition filed by petitioners Amit Behra, Richa Raje and Smt. Sataxi Saxena whereby prayer has been made for quashing the Proceeding of Criminal Case No.7749/2012 arising out of Crime No.455 of 2012 registered at P.S. Sarkanda, Bilaspur for the offence punishable u/s 498-A of IPC.
2. The order dated 17.12.2018 passed by the JMFC, Bilaspur shows that on a joint application filed by the parties, the trial Court has compounded the offence under Sections 323, 325 &

506 Part-II of IPC pending against petitioner No.1 Amit Behra , but dismissed the application for compounding the offence u/s 498-A as it is not compoundable.

3. As per the facts narrated in the petition, Petitioner no.2 Richa Raje was married to Petitioner no.1 Amit Behar on 23.05.2012. Subsequently, it was alleged that she was subjected to cruelty and assault was also made against her and the report having been made, the offence u/s 323, 325, 506 Part II and 498-A IPC was registered. During the course of trial, it is contended that both the parties have amicably settled the dispute and Petitioner No.2 (wife) has entered into compromise and settled the dispute with accused Amit Behar, the husband and having been separated by divorce, it is stated that she do not want to further prosecute the criminal case against petitioner No.1, consequently, the criminal case pending against him may be quashed.
4. Petitioner No.1 Amit Behar, Petitioner No.2 Richa Raje and Petitioner No.3 Smt. Satakshi Saxena have jointly submitted at bar that they have entered into compromise and Petitioner No.2 Richa Raje stated that she do not want to further prosecute her complaint. The record would show that before the charge sheet was filed, the joint application was filed u/s 320(1) of Cr.P.C., before the trial Court for compounding the case whereon the offence u/s 323, 325 & 506 Part II IPC was compounded and the accused was discharged. However, the offence u/s 498-A of IPC being non-compoundable was not allowed to be compounded. The petitioners have been

identified by their Counsel before the Court. Petitioner no.2 Richa Raje is also present and submits that she do not want to further prosecute her complaint.

5. In a case law reported in ***(2017) 9 SCC 641 Parbatbhai Aahir @ Parbatbhai Bhimsinhbhai Karmur vs. State of Gujarat***, their Lordship has reiterated the views expressed in ***Gian Singh v. State of Punjab 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. Considering the statement of complainant Smt. Richa Raje before the Court that she has entered into compromise without fear and pressure and she do not want to continue the proceedings against Petitioner No.1 Amit Behar as the entire final settlement has been arrived at between them and further looking to 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 criminal proceedings against petitioner No.1 as the complainant herself stated that she do not want to further prosecute the proceedings against him and in view of the principles laid down in cases of *Gian Singh v. State of Punjab (supra)* and *Parbhat Bhai Aahir vs. State of Gujarat (supra)* I am inclined to quash the Criminal Case pending against the petitioner No.1. Accordingly, it is

directed that the proceedings of Criminal Case No.7749/2012 pending before the JMFC Bilaspur for the offence under section 498-A which emanated from Crime No.455/2012 registered at Police Station Sarkanda, Bilaspur (Chhattisgarh) is hereby quashed and petitioner No.1 is acquitted of the charge.

7. In the result, the petition is allowed.

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