

HIGH COURT OF CHHATTISGARH, BILASPURCriminal Misc Petition No.769 of 2019

1. Manoj Acharya, S/o Shri Aditya Acharya, aged about 44 years, R/o R.H. 11, Vimal Enclave, Bilaspur Road, Bhanpuri, Tah. and Distt. Raipur (C.G.)
(Applicant No.1)
 2. Smt. Sonali Acharya, D/o Janardan Mishra, aged about 38 years, R/o Care of Naresh Devangan, Durga Chowk, Bangla Para, P.S. Chakradharpur, Tah. and Distt. Raigarh (C.G.)
(Applicant No.2)
 3. Smt. Surekha Acharya, W/o Shri Aditya Kumar Acharya, aged about 63 years
(Applicant No.3)
 4. Sanjay Acharya, S/o Shri Aditya Kumar Acharya, aged about 47 years
(Applicant No.4)
 5. Smt. Rashmi Acharya, W/o Sanjay Acharya, aged about 40 years
(Applicant No.5)
- [Address of Applicant 3 to 4 is Shivanand Nagar, Sect.-3, Raipur (C.G.) P.S. Khamtarai, Raipur]
6. Smt. Gayatri Panda, W/o Sujit Kumar Panda, aged about 38 years, R/o Udia Gully, Mandir Road, Jharsugda (Orissa)
(Applicant No.6)
 7. Sharda Manjhi alias Gudia, D/o Wak Chand Manjhi, aged about 38 years, R/o Budawari Bazar, Birgaon, Ward No.6, Raipur (C.G.) P.S. Urla, Raipur.
(Applicant No.7)
---- Petitioners

Versus

State of Chhattisgarh, through Police Station Mahila Police Thana, Byron Bazar, Raipur (C.G.)

---- Respondent

For Petitioners No.1 and 3 to 7: -

Dr. Shiv Kumar Shrivastava, Advocate.

For Petitioner No.2: -

Mr. Ashok Patil, Advocate.

For Respondent / State: -

Mr. Rahul Jha, Government Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

21/11/2019

1. Petitioner No.1 is husband of petitioner No.2 and petitioners No.3 to 7 are in-laws of petitioner No.2. Marriage of petitioner No.2 was solemnised with petitioner No.1 in the year 2003 and thereafter dispute arose between the parties leading to registration of first information report (FIR) for the offence punishable under Sections 498A, 506 Part-II & 109 read with Section 34 of the IPC and all the petitioners herein except petitioner No.2 were charge-sheeted and all were released on bail. Thereafter, on the basis of mutual consent, divorce was granted to petitioners No.1 & 2 and their marriage was dissolved by the order of the Family Court, Raipur and thereafter, they filed an application for compounding the offence under Section 320(2) of the CrPC before the Court of Judicial Magistrate First Class, Raipur who compounded the offence punishable under Section 506 Part-II of the IPC, but declined to compound the offence punishable under Sections 498A and 109 read with Section 34 of the IPC on the ground that same are non-compoundable against which this petition under Section 482 of the CrPC has been filed.
2. Dr. Shiv Kumar Shrivastava, learned counsel appearing for petitioners No.1 and 3 to 7, submits that in view of the settlement between the parties by which petitioners No.1 and 3 to 7 have already been acquitted of the offence punishable under Section 506 Part-II of the IPC by the jurisdictional criminal Court and divorce has already taken place, the chances of petitioners No.1 and 3 to 7 for conviction of the offence punishable under Sections 498-A and 109 read with Section 34 of the IPC are bleak relying upon a decision of the Supreme Court in the matter of Jitendra Raghuvanshi and others v. Babita

Raghuvanshi and another¹. Therefore, prosecution of the petitioners for offence punishable under Sections 498-A and 109 read with Section 34 of the IPC be quashed.

3. Mr. Ashok Patil, learned counsel appearing for petitioner No.2 – wife, submits that offence punishable under Section 506 Part-II of the IPC has already been compounded and mutual divorce between the parties has already taken place and petitioner No.2 is also not willing to press her complaint.
4. I have heard learned counsel for the parties and considered their rival submissions made herein-above and went through the record with utmost circumspection.
5. The scope and ambit of the power conferred on this Court by Section 482 of the CrPC read with Articles 226 and 227 of the Constitution of India, in the particular context of prayer for quashing criminal proceedings has been examined by the Supreme Court in the matter of B.S. Joshi and others v. State of Haryana and another² and thereafter in the matter of Gian Singh v. State of Punjab³, and ultimately, noticing the aforesaid decisions, finally, in Jitendra Raghuvanshi (supra), Their Lordships of the Supreme Court in the context of matrimonial disputes resulting into criminal proceedings, held as under: -

“15. In our view, it is the duty of the courts to encourage genuine settlements of matrimonial disputes, particularly, when the same are on considerable increase. Even if the offences are non-compoundable, if they relate to matrimonial disputes and the Court is satisfied that the parties have settled the same amicably and without any pressure, we hold that for the purpose of securing ends of justice, Section 320 of the Code would not be a bar to the exercise of power of quashing of FIR, complaint or the

1 (2013) 4 SCC 58

2 (2003) 4 SCC 675

3 (2012) 10 SCC 303

subsequent criminal proceedings.

16. There has been an outburst of matrimonial disputes in recent times. The institution of marriage occupies an important place and it has an important role to play in the society. Therefore, every effort should be made in the interest of the individuals in order to enable them to settle down in life and live peacefully. If the parties ponder over their defaults and terminate their disputes amicably by mutual agreement instead of fighting it out in a court of law, in order to do complete justice in the matrimonial matters, the courts should be less hesitant in exercising their extraordinary jurisdiction. It is trite to state that the power under Section 482 should be exercised sparingly and with circumspection only when the Court is convinced, on the basis of material on record, that allowing the proceedings to continue would be an abuse of process of court or that the ends of justice require that the proceedings ought to be quashed. We also make it clear that exercise of such power would depend upon the facts and circumstances of each case and it has to be exercised in appropriate cases in order to do real and substantial justice for the administration of which alone the courts exist. It is the duty of the courts to encourage genuine settlements of matrimonial disputes and Section 482 of the Code enables the High Court and Article 142 of the Constitution enables this Court to pass such orders.”

6. Reverting to the facts of the present case in light of the decisions rendered by the Supreme Court in the aforesaid judgments, it is quite vivid that in order to give quietus to the matrimonial dispute, parties have settled their dispute by which petitioners No.1 and 3 to 7 have already been acquitted of the charge by the jurisdictional criminal Court under Section 506 Part-II of the IPC. Admittedly, decree of divorce has been granted to petitioners No.1 and 2 under Section 13(b) of the Hindu Marriage Act by the jurisdictional Family Court and petitioner No.2 has got her statement recorded holding that the dispute has already been settled between the parties and now, there is no dispute outstanding between the parties and parties have settled the dispute amicably.
7. In view of the aforesaid facts, since the parties have already moved on with their respective lives seeking closure and they have closed their

matrimonial disputes and offence registered against them under the Indian Penal Code except Sections 498-A and 109 read with Section 34 of the IPC, have been closed pursuant to their willingness and order of the court and mutual divorce has also taken place between the parties and now, there is no dispute persisting at present between the parties, in the considered opinion of this Court, quashing the proceedings for offence punishable under Sections 498-A & 109 read with Section 34 of the IPC would be in the ends of justice, it would bring peace to them, rather allowing the continuation of prosecution for offence under Sections 498-A & 109 read with Section 34 of the IPC would be fruitless and would be abuse of the process of the court.

8. In consequence, the petition is allowed and criminal proceedings in Criminal Case No.3124/2008 pending against petitioners No.1 and 3 to 7 in the Court of the Judicial Magistrate First Class, Raipur for offence punishable under Sections 498-A & 109 read with Section 34 of the IPC, are hereby quashed and petitioners No.1 and 3 to 7 are acquitted of the said charges.

Sd/-
(Sanjay K. Agrawal)
Judge