

HIGH COURT OF CHHATTISGARH, BILASPURCriminal Misc. Petition No.762 of 2019

1. Smt. Seema Mawani, W/o Shailesh Mawani, aged about 58 years.
2. Shailesh Mawani, S/o Late Lalji Mawani, aged about 55 years.
3. Dhawal Mawani, S/o Shailesh Mawani, aged about 30 years.

All R/o Shop No. 28, Civic Centre, Purana Market, Bhilai, Police Station Bhilai Nagar, District Durg (C.G.)

---- Petitioners

Versus

1. Smt. Deepshikha Mawani, W/o Dhawal Mawani, aged about 27 years, presently residing at A-401, Anand Palace, No. 4, Nandanvan Main Road, Nagpur (Maharashtra) 440009.
2. Arvind Kumar Jain, S/o Raghuveer Prasad Jain, aged about 58 years, R/o A-401, Anand Palace, No. 4, Nandanvan Main Road, Nagpur (Maharashtra) 440009.
3. State of Chhattisgarh, through Police Station Bhilai Nagar, District Durg (C.G.)

---- Respondents

For Petitioners: Mr. T.K. Jha, Advocate.

For Respondents No.1 and 2: -

Ms. S.R. Pophali, Advocate.

For Respondent No.3 / State: -

Mr. Priyank Rathi, Panel Lawyer.

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

09/04/2019

1. Marriage of petitioner No.3 – Dhawal Mawani was solemnized with respondent No.1 – Smt. Deepshikha Mawani on 30-4-2015, thereafter, within short time, dispute arose between the parties leading to lodging of first information report by the father of respondent No.1 to the jurisdictional police pursuant to which offence punishable under Sections 498A and 406 read with Section 34 of the IPC and Section 4 of the Dowry Prohibition Act was registered against the petitioners.

During the course of trial, parties have settled the dispute and compounded the offence punishable under Section 406 of the IPC by order dated 12-3-2019 passed by the Judicial Magistrate First Class, Durg, but the learned Judicial Magistrate has held that offence punishable under Sections 498A of the IPC and 4 of the Dowry Prohibition Act is not compoundable without the leave of the court. Now, the parties have filed this petition stating inter alia that they have settled the dispute amicably and they do not want to prosecute the offence further. During the course of this proceeding, statements of the parties were recorded in which they have stated that they have settled the dispute amicably and the respondents have submitted that they do not wish to prosecute the criminal case further.

2. I have heard learned counsel for the parties and considered their rival submissions made herein-above.
3. Recently, the Supreme Court in the matter of **State of Madhya Pradesh v. Laxmi Narayan and others**¹ has laid down the following parameters for exercising the power under Section 482 of the CrPC and held as under: -

“31. Considering the law on the point and the other decisions of this Court on the point, referred to hereinabove, it is observed and held as under:

i) that the power conferred under Section 482 of the Code to quash the criminal proceedings for the non-compoundable offences under Section 320 of the Code can be exercised having overwhelmingly and predominantly the civil character, particularly those arising out of commercial transactions or arising out of matrimonial relationship or family disputes and when the parties have resolved the entire dispute amongst themselves;”

4. Thus, it is quite vivid that power under Section 482 of the CrPC can be exercised to quash the criminal proceeding for non-compoundable offence under Section 320 of the CrPC arising out of matrimonial

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relationship when the parties have resolved their dispute amicably. In the instant case, parties have appeared before this Court and also made statement on oath that they have settled their dispute amicably and the dispute being matrimonial dispute registered under Sections 498A of the IPC and 4 of the Dowry Prohibition Act which are non-compoundable, I consider it to be a fit case for exercising the jurisdiction under Section 482 of the CrPC in light of Laxmi Narayan's case (supra) and hereby quash the petitioners' prosecution for the offence punishable under Sections 498A read with Section 34 of the IPC and 4 of the Dowry Prohibition Act and the petitioners are acquitted of the said charges.

5. The petition is allowed to the extent indicated herein-above.

Sd/-
(Sanjay K. Agrawal)
Judge

Soma