

AFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 799 of 2018**

- Rajesh Kumar Sahu S/o S/o Shri Premal Sahu Aged About 30 Years
R/o Village Masturi, District- Bilaspur, Chhattisgarh. --- **Petitioner**

Versus

1. State of Chhattisgarh through the Station House Officer, Police Station Masturi, District- Bilaspur, Chhattisgarh., District : Bilaspur, Chhattisgarh
2. Smt. Anita Sahu W/o Shri Rajesh Kumar Sahu Aged About 27 Years
R/o Manjhapara Jarhabhata, Ward No. 12, Police Station Civil Lines, Tahsil And District Bilaspur, Chhattisgarh., District : Bilaspur, Chhattisgarh --- **Respondents**

For the applicant	:	Mr. Vijay Lakshmi Soni, Advocate
For the State	:	Mr. Aditya Sharma, P.L.
For respondent no.2	:	Mrs. Anita Sahu in person.

Hon'ble Shri Justice Goutam Bhaduri**ORDER ON BOARD****08.01.2019**

1. The instant petition is for quashing of a criminal case which is pending u/s 498A of IPC. The Judicial Magistrate First Class, Bilaspur by its order dated 24.10.2017 has quashed the proceeding u/s 506 of IPC, however, directed to continue the trial under section 498-A of IPC. The present petition is by the husband Rajesh Kumar Sahu. Respondent no.2 is present in person.
2. It is contended that the petitioner and respondent no.2 were married on 11.07.2013. Thereafter they could not go long and eventually an FIR was made by respondent No.2 whereby the Criminal Case was registered u/s 506 & 498-A of IPC against the husband the petitioner. It is stated that during the pendency of criminal case the husband and wife

settled the dispute and entered a compromise to have separation by mutual divorce 13-B. It is further contended that respondent No.2 has entered into a compromise and has received the consolidated amount of Rs.4 lakhs from the petitioner and as such she do not want to continue with her criminal case against the petitioner.

3. With respect to compounding the offence, Hon'ble the Supreme Court in *Gian Singh v. State of Punjab & Another reported in (2012) 10 SCC 303* has laid down the following principles :

“61. The position that emerges from the above discussion can be summarized 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 pre-dominantly civil flavour stand on different footing for the purposes of quashing, particularly the offences arising from commercial, financial, mercantile, civil, 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”.

4. 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 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.”

5. Respondent No.2 is present in person. Having been enquired and on being reiterated by the State Government, it is deposed that she has compounded the offence and do not want to further prosecute the petitioner as she has received the entire amount.

6. Considering the statement of victim and the nature of

allegations against the husband as also the principles laid down in the aforesaid cases, it appears that the dispute between the husband and wife is purely private in nature and the wife do not want to continue with her complaint further. Under the circumstances, no purpose will be served to continue Criminal Case No.3318 of 2014 pending before JMFC, Bilspur for the offence u/s 498-A of IPC. Therefore the proceedings of Criminal Case No.3318/ 2014 is quashed. Consequently, Crime No.362/2014 registered against the petitioner at Police Station Masturi shall also stand quashed.

7. The revision is disposed of with the above observation/ direction.

**Sd/-
GOUTAM BHADURI
JUDGE**