

AFR**HIGH COURT OF CHHATTISGARH, BILASPUR****CRMP No. 965 of 2019**

1. Sukhram Sahu S/o Shyam Lal Sahu Aged About 60 Years
2. Smt. Dhaneshwari Sahu W/o Sukhram Sahu Aged About 50 Years
3. Lalita Sahu D/o Sukhram Sahu Aged About 24 Years
4. Arun Sahu S/o Sukhram Sahu Aged About 35 Years

All R/o Quarter No. N.E./60, C.S.E.B. Colony East, Tahsil And Disrtict-
Korba, Chhattisgarh

---- Petitioners**Versus**

1. State Of Chhattisgarh Through The Station House Officer, Out
Post Rampur, Police Station Kotwali, Disrtict- Korba, Chhattigarh.
2. Smt. Ranjna Sahu W/o Arun Sahu Aged About 28 Years R/o
Quarter No. M/371, Vikas Nagar Kusmunda, District- Korba, CG

---- Respondents

For petitioners	:	Shri Vikas Pandey, Adv.
For respondent No. 1	:	Smt. M. Asha, PL
For respondent No. 2	:	Shri A.L. Singrol, Adv.

Hon'ble Shri Sharad Kumar Gupta, Judge
ORDER ON BOARD

15-7-2019

1. With consent of the parties, heard the matter finally.
2. Petitioner has preferred this CRMP under Section 482 of the Code of Criminal Procedure (in brevity Cr.P.C.) for quashing the impugned order dated 2-2-2019 passed by the JMFC, Korba whereby and whereunder he rejected the application for permission to compound and application for compounding the offence dated 2-2-2019.
3. In brief the petitioners' case is that marriage of petitioner No. 4 was solemnized with respondent No. 2 in accordance with Hindu rites and rituals. Petitioner No. 1 is her father in law, petitioner No. 2 is her mother in law, petitioner No. 3 is her sister in law. Respondent No. 2 had lodged the report against them. A crime No. 507/2016 under Section 498-A read with Section 34 of the IPC was registered against them in PS Kotwali, Korba. A criminal case is pending before the JMFC, Korba. They and respondent No. 2 preferred an application for permission to compound the offence and another application for compounding the offence which were rejected by the trial Court on 2-2-2019 on the ground that offence is

not compoundable.

4. In brief the case of the respondent No. 1 is that the order of trial Court is just and proper and does not suffer from any illegality.

5. Counsel for the respondent No. 2 submits that he does not want to file reply.

6. Counsel for the petitioners argued that the impugned order is bad in law, thus it may be set aside and the rejected applications may be allowed.

7. Counsel for the Respondent No. 1 submitted that there is no reason to interfere in the impugned order exercising the inherent power.

8. Counsel for the respondent No. 2 supported the petitioners' case.

9. Counsel for the petitioners placed reliance on a decision of this Court in the matter of **Ramesh Agrawal and others -v- Smt. Sunita Agrawal and another** decided by this Court on **25-4-2017 in Cr.M.P. No. 259/2017**. In that case petitioners had filed an application under Section 482 of Cr.P.C. for the quashment of criminal case pending before the JMFC, Raigarh. A charge sheet had been filed against them under Section 498-A, 323/34, 506 of IPC. During the pendency both the parties had filed an application under Section 320 (8) of the Cr.P.C. for compounding the offence stating inter alia that they had settled their dispute amicably. Said application was dismissed by the trial Court holding that offence under Section 498-A of the IPC is not compoundable. In these circumstances, the coordinate bench of this Court quashed the criminal case pending before JMFC, Raigarh.

10. In the matter of **Ramlal and Another vs. State of J& K** [(1999) 2 SCC 213], the parties had settled the dispute among themselves after the appellant stood convicted u/s 326 IPC. The mutual settlement was then sought to be made a basis for compounding of the offence in appeal arising out of the order of conviction and sentence imposed upon the accused. The court observed that since the offence was non-compoundable the Court could not permit the same to be compounded in the teeth of Section 320 CrPC. Even so the compromise was taken as an extenuating circumstance which the court took into consideration to reduce the punishment awarded to the appellant to the period already undergone.

11. In the matter of **Ishwar Singh vs. State of Madhya Pradesh** [(2008) 15 SCC 667] their Lordship of Supreme Court observed in para 14 which reads as under :-

“14. In our considered opinion, it would not be appropriate to order compounding of an offence not compoundable under the CrPC ignoring and keeping aside statutory provisions.....”

12. In **Parbatbhai Aahir v. State of Gujarat**, [(2017) 9 SCC 641], Their Lordships have had an occasion to consider whether the High Court can quash the FIR/complaint/criminal proceedings, in exercise of the inherent jurisdiction under Section 482 Cr.P.C. Considering a catena of decisions of this Court on the point, this Court summarised the following propositions:

“(1) xxx xxx xxx.

(2) 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 CrPC. The power to quash under Section 482 is attracted even if the offence is non-compoundable.

(3) xxx xxx xxx.

(4) xxx xxx xxx.

(5) xxx xxx xxx.

(6) xxx xxx xxx.

(7) xxx xxx xxx.

(8) xxx xxx xxx.

(9) xxx xxx xxx.

(10) xxx xxx xxx.

13. In the case in hand, petitioners have not prayed for the quashment of criminal proceeding pending before the JMFC Korba. Instead of it, the prayer is to set aside the impugned order of trial Court and allow the compounding of offence. In the case in hand, as per the provisions of Section 320 of the Cr.P.C., Section 498-A of the IPC is not compoundable

either without permission of the court or with the permission of the court. Looking to the aforesaid judicial precedents laid down by Hon'ble Supreme Court this Court finds that, petitioners do not get any help from the case law of **Ramesh Agrawal and others** (supra) and power under Section 320, Cr.P.C. and power under Section 482, Cr.P.C. are totally different. A trial court or an appellate court can give the permission to compound the offence or compound the offence, which are permissible under the provisions of Section 320, Cr.P.C. but when the court exercises the power of Section 482, Cr.P.C. cannot either give the permission for compounding the offence or compound the offence, irrespective of the fact that such offence is compoundable with the permission of the Court or without the permission of the court as per the provisions of Section 320, Cr.P.C. Well settled legal position is that if offence is not compoundable and matter has been amicably settled between the parties then under the guidelines laid down by hon'ble Supreme Court, then, court can quash FIR/charge sheet/pending criminal proceedings, before the criminal court.

14. Looking to the above mentioned facts and circumstances of the case, this Court finds that there is no abuse of process or there is no such ground to intervene in the matter to secure the ends of justice.

15. Consequently, the CRMP is dismissed.

Sd/-
(Sharad Kumar Gupta)
Judge