

AFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 981 of 2018**

1. Vaibhav Chakradev S/o V.K. Chakradev Aged About 31 Years R/o- Quarter No. 469 B Sector-3, Balco District- Korba, Present Address- C/o- Dilip Chakradev Dalayband Tehsil & District- Bilaspur, Chhattisgarh
2. Kishore Bhokrikar S/o Late Vaman Rao Bhokrikar Aged About 62 Years R/o- Guru Vihar Colony Quarter No. 30 P.S.- Sarkanda, District- Bilaspur, Chhattisgarh., District : Bilaspur, Chhattisgarh ----

Petitioners**Versus**

1. State of Chhattisgarh through- Station House Officer Civil Line District- Bilaspur, District : Bilaspur, Chhattisgarh
2. Smt. Purna Chakradev W/o Vaibhav Chakradev Aged About 23 Years D/o- Ajay Kumar Dhabu, R/o- 27 Kholi Near Water Tank Kota Colony P.S.- Aamanaka, Raipur, District- Raipur, Chhattisgarh. ----

Respondents

For the applicant	:	Mr. Basant Dewangan, Advocate
For the State	:	Mr. Vaibhav Goverdhan, P.L.

Hon'ble Shri Justice Goutam Bhaduri**ORDER ON BOARD****14.01.2019**

1. The instant petition is to quash criminal case No.3380/2016 pending before the Judicial Magistrate First Class, Bilaspur for the offence u/s 498-A read with section 34 of IPC. The petitioners herein are accused.
2. It is contended that petitioner No.1 was married to respondent No.2 on 27.11.2015. Thereafter, petitioner No.1 & respondent No.2 could not go along with marriage as such they started living separately from 24.02.2016. In the meanwhile, during the stay of respondent no.2 along with petitioners, a report was lodged u/s 498-A against the

petitioners as she was subjected to cruelty for demand of dowry. It is contended that during the pendency of this petition, the petitioners and respondent no.2 have entered into compromise and have decided to live separately and a decree for divorce was passed against them. It is further contended that as per the settlement the entire amount of compensation has been paid to respondent no.2. The statement of respondent Smt. Prerna Chakradev was recorded before Additional Registrar (Judicial). It is submitted submits that she do not want to continue with the criminal proceeding.

3. A perusal of the record would show that respondent no.2 the victim complainant has made a settlement to the effect that they have decided to obtain divorce and during the pendency of the proceeding, an amount of Rs.3,50,000/- has been paid and now she do not want to continue with criminal case which is pending before the JMFC, Bilaspur against the petitioners u/s 498-A read with section 34 IPC which arose out of Crime No.174/2016 registered at P.S. Bilaspur.
4. 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”.

5. 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.”

6. Considering the statement of victim that she has entered into compromise without fear and pressure and she do not want to continue with criminal case against the petitioners and the fact that an amount of Rs.3,50,000 has been received as full and final settlement and they have decided to live separately as also looking to the nature of allegations against the petitioners and background of the case and further considering the principles laid down in the aforesaid cases and as it appears that the dispute between the husband and wife is purely private in nature, I am inclined to quash the criminal proceedings. Accordingly, the proceedings of Criminal Case No.3380/2016 pending before the JMFC, Bilaspur for the offence u/s 498-A/34 is quashed. Consequently, Crime No.174/2016 registered against the petitioners at Police Station, Civil Lines, Bilaspur stands quashed.
7. The revision is disposed of with the above observation/direction.

**Sd/-
GOUTAM BHADURI
JUDGE**