

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 1518 of 2018

1. Pramod Nahar S/o Shri Komalchand Aged About 68 Years R/o Shop No. 40, Ashok Watch Company, Civil Centre, Bhilai, Tehsil & District Durg Chhattisgarh.
2. Prateek Nahar S/o Pramod Nahar Aged About 37 Years R/o Shop No. 40, Ashok Watch Company, Civil Centre, Bhilai, Tehsil & District Durg Chhattisgarh.
3. Smt. Shashi Nahar W/o Pramod Nahar Aged About 61 Years R/o Shop No. 40, Ashok Watch Company, Civil Centre, Bhilai, Tehsil & District Durg Chhattisgarh.
4. Smt. Seema Nahar W/o Prateek Nahar Aged About 36 Years R/o Shop No. 40, Ashok Watch Company, Civil Centre, Bhilai, Tehsil and District Durg Chhattisgarh.
5. Prasuk Nahar S/o Pramod Nahar Aged About 33 Years R/o Shop No. 40, Ashok Watch Company, Civil Centre, Bhilai, Tehsil & District Durg Chhattisgarh.

--- Petitioners

Versus

1. Smt. Prachi Nahar Alias Prachi Jain W/o Prasuk Nahar Aged About 32 Years R/o H. I. G. 8, Chitakut Complex, Nagpur Road, Tehsil & District Chhindwara, Madhya Pradesh.
2. State of Chhattisgarh through the District Magistrate Durg District Durg Chhattisgarh.

--- Respondents

For Petitioners	:	Mr. Raghavendra Pradhan and Mr. Shikhar Sharma, Advocate
For Respondent No. 1	:	Mr. Anand Shukla, Advocate
For Respondent 2/State	:	Ms. Shivali Dubey, Panel Lawyer

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

14.03.2019

1. The instant petition is against the order dated 11.04.2018 passed by the JMFC, Durg in Criminal Case No.3818/2015 whereby the application filed u/s 320(2) of Cr.P.C., to compound the offence u/s 498-A/34 & 354 of IPC read with section 4 of the Dowry Prohibition Act has been dismissed.
2. The facts as narrated in the petition would reveal that respondent No.2 Prachi Nahar was married to petitioner No.5 Prasuk Nahar on 29.05.2013. Subsequently, she filed a complaint against the petitioners whereby the offence u/s 498-A, 354, 294, 506, 325 and section 4 of the Dowry Prohibition Act was registered. During the pendency of the case, an application was filed u/s 320 of Cr.P.C. wherein it was stated that the parties have entered into compromise and the full and final settlement has been arrived at for Rs. 11,75,000/-. It is stated that earlier Rs.5,87,500/- was paid and in addition, today a Cheque of Rs.5,87,500/- bearing No.482485001 dated 14.03.2019 has been handed over to respondent No.2. Both the counsel for the parties would submit that the parties have amicably settled the dispute. Respondent No.2 is present in person and submits that she do not want to continue the further proceedings of criminal case against the petitioners as the compromise has been effected and total an amount of Rs.11,75,000/- including the present cheque dated 14.03.2019 of Rs.5,87,500/- has been received. Respondent No.2 also submits that she has settled the

dispute with the petitioners and she do not want to continue the case against the petitioners.

3. In case of ***Parbatbhai Aahir @ Parbatbhai Bhimsinhbhai Karmur & Ors.*** in Criminal Appeal No.1723 of 2017 their Lordship has reiterated the view taken in ***Gian Singh v. State of Punjab and another 2012 10 SCC 303*** 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.”

4. Perused the orders dated 11.04.2018 & 13.04.2018. It appears that earlier while the case was pending application for compounding the offence was filed and the offence under sections 294, 506, 325 IPC being compoundable, the petitioners have been exonerated. However, since the offence under section 354 and 498-A/34 of IPC & section 4 of Dowry Prohibition Act being non-compoundable, the same were not allowed to be compounded.
5. Learned counsel for the parties submit that they have amicably settled the dispute and a cheque of Rs.5,87,500/- has been handed over to the complainant. The complainant who is present before the Court has stated that she has received the entire amount and she do not want to continue the proceedings of criminal case against the petitioners.
6. Considering the nature of offence and since it has been stated by the complainant that compromise has been effected without fear and pressure and she has received the entire amount as full and final settlement and further considering the fact that the dispute between the parties appears to be

private in nature and in view of the principles laid down by the Supreme Court as above, I am of the opinion that no purpose would be served to continue the proceedings against the petitioners. Accordingly, it is directed that the proceedings of Criminal Case No.3818/2015 pending before the JMFC, Durg arising out of the FIR No.417/2014 against the petitioners under section 498-A read with section 34 and section 354 of IPC as also section 4 of the Dowry Prohibition Act is hereby quashed and the petitioners are acquitted of the charges.

7. In the result, the petition is allowed.

**Sd/-
(GOUTAM BHADURI)
JUDGE**