

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 1550 of 2018

1. Laxmikant Tiwari S/o Shri Aditya Tiwari Aged About 33 Years R/o Deendayal Colony, LIG-475, P. S. Civil Lines, Bilaspur District : Bilaspur, Chhattisgarh
2. Aditya Tiwari S/o Shri Govind Prasad Tiwari Aged About 65 Years R/o Village Dullapur, P. S. Kunda, Distt. Kabirdham District : Kawardha (Kabirdham), Chhattisgarh
3. Dr. Kamlakant Tiwari S/o Shri Aditya Tiwari Aged About 37 Years R/o Alka Evenue, House No. D/24 Uslapur, P. S. Civil Lines Distt. Bilaspur District : Bilaspur, Chhattisgarh **--- Petitioners**

Versus

1. State of Chhattisgarh through the District Magistrate Bilaspur District Bilaspur Chhattisgarh.
2. Sudha Tiwari @ Babita W/o Laxmikant Tiwari Aged About 26 Years R/o C/o Suresh Joshi, Makhan Plot Near Karmal School Tilda, Distt. Raipur Chhattisgarh. **--- Respondents**

For Petitioners : Mr. K.P.S. Gandhi, Advocate
For Respondent No.1/State : Mr. Chandresh Shrivastava, Dy.A.G.
For Respondent No. 2 : Mr. Wasim Miyan, Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

05.03.2019

1. The present petition is against the order dated 20.07.2018 passed by the JMFC, Bilaspur in Criminal Case No.5665 of 2016 wherein the application filed under section 320 of Cr.P.C., to quash the proceeding which is pending u/s 498-A/34 of IPC has been rejected.
2. Brief facts of the case are that the marriage of Petitioner No.1 Laxmikant Tiwari was solemnized with respondent No.2 Sudha Tiwari @ Babita on 29.05.2014. Thereafter the husband and

wife could not go along and eventually a report was made by the wife u/s 498-A read with section 34 of IPC wherein the present petitioners have been arrayed as accused. Subsequently after the charge sheet was filed an application was filed under section 320 of Cr.P.C., before the C.J.M. Bilaspur as it was stated that both the complainant and accused have entered into compromise and the complainant do not want to prosecute her complaint any further.

3. The petitioners as also respondent No.2 are present before the Court. Respondent No.2 has stated that she has entered into compromise and has received the entire amount of compensation towards alimony from petitioner Laxmi Kant Tiwari. The fact is also ascertained with the help of learned State counsel and having cross checked it has been stated that she has received the entire amount and she do not want to prosecute her complaint any further.

4. In case of ***Parbatbhai Aahir @ Parbatbhai Bhimsinhbhai Karmur*** in Criminal Appeal No.1723 of 2017 the Supreme Court 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."

5. Considering the submission made by the parties especially the submission made by complainant/respondent No.2 who is also present before the Court and is identified by her counsel as also the background of the case it appears that the dispute between the parties is private in nature and the complainant do not want to further continue with her complaint as no purpose will be served to continue with the proceedings of criminal case pending before the JMFC, Bilaspur. Accordingly considering the principles laid down by

the Supreme Court in *Parbatibhai Aahir @ Parbatbhai Bhimsinhbhai Karmur v. State of Chhattisgarh* and *Gian Singh v. State of Punjab* and taking into submission made by the parties, the petition is allowed. The proceedings of Criminal Case No.5665/2016 (*State versus Laxmikant and others*) pending before the JMFC, Bilaspur are hereby quashed. The petitioners are acquitted of the charges.

Sd/-
(GOUTAM BHADURI)
JUDGE