

HIGH COURT OF CHHATTISGARH, BILASPUR**Cr.M.P. No. 2356 of 2018**

1. Shailesh Nirmalkar, S/o Shri Netram Nirmalkar, aged about 33 years.
 2. Netram Nirmalkar, S/o Late Shri Tikaram Nirmalkar, aged about 67 years,
 3. Smt. Neera Nirmalkar, W/o Shri Netram Nirmalkar, aged about 57 years,
- All are R/o Amatalab Road, Gourav Path, Dhamtari, District Dhamtari (C.G.)

----Petitioners.**Versus**

1. Smt. Bhuneshwari Nirmalkar, D/o Shri Kanglu Ram Bareth, aged about 30 years, C/o Kanglu Ram Bareth, R/o Plot No. 38, Kabir Chowk, Gourav Path Road, Raigarh, District Raigarh (C.G.)
2. State of Chhattisgarh, Through : District Magistrate, Raigarh, District Raigarh (C.G.)

----Respondents

For Petitioners	: Mr. Sunil Sahu, Advocate.
For Respondent No.1	: Mr. Soumitra Kesharwani, Advocate.
For Respondent No.2/ State	: Mr. Ravi Kumar Bhagat, Dy. Govt. Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal**Order On Board****14/11/2019**

(1) By way of this Cr.M.P., petitioners seek quashment of the criminal proceedings registered against them at the instance of respondent No. 1 for offence punishable under Section 498-A of the IPC read with Sections 3 & 4 of the Dowry Prohibition Act, 1961.

(2) Petitioner No. 1 is husband of respondent No. 1, petitioner No. 2 is father-in-law

of respondent No. 1 and petitioner No. 3 is mother-in-law of respondent No. 1. Marriage of petitioner No. 1 and respondent No. 1 was solemnized on 6.7.2013 and thereafter they started residing as husband and wife but thereafter dispute arose between them leading to filing of FIR against the petitioners by respondent No. 1 under Section 498-A of the IPC read with Section 3 & 4 of the Dowry Prohibition Act, 1961; and other proceeding under Section 12 of the Protection of Women from Domestic Violence Act, 2005 was also initiated against them.

(3) Learned counsel appearing for the parties jointly submit that proceeding under Section 12 of the Protection of Women from Domestic Violence Act, 2005 has already been compounded between petitioners and respondent No.1 by order of criminal court dated 21.11.2017 and in this case statements of the parties have already been recorded before the Additional Registrar (Judicial) on 15th March, 2019. They further submit that petitioners and respondent No.1 have settled the dispute amicably and mutual divorce has already taken place between petitioner No. 1 & respondent No.1; and the maintenance proceedings has already been settled by the Family Court, Raigarh by order dated 10.5.2017. Therefore, prosecution of the petitioners for offence punishable under Section 498-A of the IPC be quashed.

(4) I have heard learned counsel for the parties and considered their rival submissions made herein-above and went through the record with utmost circumspection.

(5) The scope and ambit of the power conferred on this Court by Section 482 of the CrPC read with Articles 226 and 227 of the Constitution of India, in the particular context of prayer for quashing criminal proceedings has been examined by the Supreme Court

in the matter of **B.S. Joshi and others v. State of Haryana and another**¹ and thereafter in the matter of **Gian Singh v. State of Punjab**², and ultimately, noticing the aforesaid decisions, finally, in **Jitendra Raghuvanshi** (supra), Their Lordships of the Supreme Court in the context of matrimonial disputes resulting into criminal proceedings, held as under: -

“15. In our view, it is the duty of the courts to encourage genuine settlements of matrimonial disputes, particularly, when the same are on considerable increase. Even if the offences are non-compoundable, if they relate to matrimonial disputes and the Court is satisfied that the parties have settled the same amicably and without any pressure, we hold that for the purpose of securing ends of justice, Section 320 of the Code would not be a bar to the exercise of power of quashing of FIR, complaint or the subsequent criminal proceedings.

16. There has been an outburst of matrimonial disputes in recent times. The institution of marriage occupies an important place and it has an important role to play in the society. Therefore, every effort should be made in the interest of the individuals in order to enable them to settle down in life and live peacefully. If the parties ponder over their defaults and terminate their disputes amicably by mutual agreement instead of fighting it out in a court of law, in order to do complete justice in the matrimonial matters, the courts should be less hesitant in exercising their extraordinary jurisdiction. It is trite to state that the power under Section 482 should be exercised sparingly and with circumspection only when the Court is convinced, on the basis of material on record, that allowing the proceedings to continue would be an abuse of process of court or that the ends of justice require that the proceedings ought to be quashed. We also make it clear that exercise of such power would depend upon the facts and

1 (2003) 4 SCC 675

2 (2012) 10 SCC 303

circumstances of each case and it has to be exercised in appropriate cases in order to do real and substantial justice for the administration of which alone the courts exist. It is the duty of the courts to encourage genuine settlements of matrimonial disputes and Section 482 of the Code enables the High Court and Article 142 of the Constitution enables this Court to pass such orders.”

(6) Reverting to the facts of the present case in light of the decisions rendered by the Supreme Court in the aforesaid judgments, in the instant case, offence under Section 12 of the Act, 2005 has already been compounded by order dated 21.11.2017 and the permanent alimony has already been fixed by order of the Family Court dated 10.05.2017; further in this case statements of the parties have already been recorded before the Additional Registrar (Judicial) on 15th March, 2019, in which they have expressed their willingness to close the case, particularly, the statement of respondent No. 2, by which she has clearly stated prosecution of the petitioners for offence punishable under Section 498-A of the IPC may be closed in view of the settlement arrived at between them.

(7) In view of the aforesaid facts, since the parties have already moved on with their respective lives seeking closure and they have closed their matrimonial disputes and offence registered against them under the Indian Penal Code except Section 498-A of the IPC and Sections 3 & 4 of the Dowry Prohibition Act, 1961 and under the provisions of the Protection of Women from Domestic Violence Act, 2005, have been closed pursuant to their willingness and order of the court dated 21.11.2017 and mutual divorce has also taken place between the parties and now, there is no dispute persisting at present between the parties, in the considered opinion of this Court, quashing the proceedings for offence under Section 498-A of the IPC read with Sections 3 & 4 of the

Dowry Prohibition Act, 1961 would be in the ends of justice, it would bring peace to them, rather allowing the continuation of prosecution for offence under Section 498-A of the IPC read with Sections 3 & 4 of the Dowry Prohibition Act, 1961 would be fruitless and would be abuse of the process of the court.

(8) In consequence, the petition is allowed and criminal proceedings in Criminal Case No.514/2015 pending against the petitioners in the Court of the Chief Judicial Magistrate, Raigarh for offence punishable under Section 498-A of the IPC read with Sections 3 & 4 of the Dowry Prohibition Act, 1961 are hereby quashed and the petitioners are acquitted of the said charges.

Sd/-

(Sanjay K. Agrawal)
Judge

D/-

