

HIGH COURT OF CHHATTISGARH, BILASPUR

CR.M.P. No. 2474 of 2018

1. Madhusudan Prasad, S/o. Late Gangavishnu, Aged About 70 Years, R/o. A-284, Vikaspuri, P.S. Vikaspuri, New Delhi.
2. Smt. Nirjala Prasad, W/o. Madhusudan Prasad, Aged About 63 Years, R/o. A-284, Vikaspuri, P.S. Vikaspuri, New Delhi
3. Kumar Dhruv, S/o. Madhusudan Prasad, Aged About 31 Years, Presently Working & Living At #3304, Golden Sands Apts., At Nahda Sharjah UAE

All are Permanent R/o. A-284, Vikaspuri, P.S. Vikaspuri, New Delhi.

---- Petitioners

Versus

1. State Of Chhattisgarh, Through The Station House Officer, Police Station- Mahila Thana Bilaspur, District Bilaspur, Chhattisgarh.
2. Smt. Neha Roy, W/o. Kumar Dhruv, Aged About 28 Years, D/o. Late Shri Ganesh Roy, R/o. Siddharth Nagar, Beside Of Kalkatta Transport, Vyapar Vihar Road, Bilaspur, Chhattisgarh

---- Respondents

For Petitioners	:	Mr. Arvind Shrivastava, Advocate
For State/Respondent No.1	:	Mr. R.K.Bhagat, Dy. Govt. Advocate
For Respondent No.2	:	Mr. B. Gopakumar, Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

15.01.2019

Heard

1. The present petition is for quashment of criminal case under Section 498-A read with Section 34 of Indian Penal Code which emanated from the FIR No.7/2016 at Police Station- Mahila Thana, Bilaspur.
2. The petitioners herein are father-in-law, mother-in-law and husband of the respondent No.2, Neha Roy. The petitioner No.3, Kumar Dhruv, was married to respondent No.2, Neha Roy on 31.12.2012. Thereafter, she cannot go along and for some reason or other it led to matrimonial dispute and eventually on a complaint filed by her, a case was registered under Section 498-A read with Section 34 of Indian Penal Code. It is further contended that apart from the criminal case under

Section 498-A read with Section 34 of Indian Penal Code, a case under the Domestic Violence Act was also registered along-with the case under Section 125 of Cr.P.C. for maintenance.

3. The petitioners are present in person along-with their counsel. Learned counsel for the petitioners would submit that all the cases i.e. case under Section 498-A read with Section 34 of Indian Penal Code, another case under the Domestic Violence Act preferred at the instance of the wife and a separate case for maintenance on behalf of the wife/respondent have been compromised and the wife has also decided not to continue with the prosecution of the case under Section 498-A of I.P.C. and she has received a consolidated amount of Rs.76 Lakhs. He further submits that the victim do not want to prosecute her complaint further under Section 498-A read with Section 34 of Indian Penal Code and two other cases have already been withdrawn as compromised. Further, it has been stated that the parties have mutually obtained the divorce on 14.01.2019.
4. Perusal of the record would show that the complainant as also the petitioners were examined and the statement of the complainant Smt. Neha Roy purports that during pendency of the criminal case which emanates from Crime No.7/2016 under Section 498-A read with Section 34 of Indian Penal Code, she has deposed that she do not want to prosecute her complaint further and she has received an amount of Rs.76 Lakhs. The certified copy of the different order further shows that one time settlement has been arrived at in between the parties in respect of the maintenance proceeding and the case under the Domestic Violence Act has also been compromised. Further, the record would also show that the parties have mutually obtained a divorce on 14.01.2019, copy of which is also placed for perusal.

5. Learned counsel for the respondent No.2 would submit that the complainant do not want to further prosecute the case and fortified the compromise entered in between the parties.
6. The Hon'ble Supreme Court in **Gian Singh v. State of Punjab & Another¹** has laid down the following principles :

“61. The position that emerges from the above discussion can be summarised 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

1 (2012) 10 SCC 303

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.

7. Further, in case of ***Parbatbhai Aahir @ Parbatbhai Bhimsinhbhai Karmur & Ors. v. State of Gujarat & Ors.***² 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 recognises and preserves powers which inhere in the High Court;

2 (2017) 9 SCC 641

(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.

8. Considering the submission made by the learned counsel for the parties and taking into the statement of the complainant, following the principles laid down by the Supreme Court in the above cited cases, I am of the opinion that the complaint is of private in nature and no purpose would be served to continue the FIR under Crime No.7/2016, which was registered at the behest of the respondent No.2.

9. In view of the above, the petition is allowed. The FIR dated 17.11.2016 registered under Crime No.7/2016 at Police Station- Mahila Thana Bilaspur for the offence under Section 498-A read with Section 34 of Indian Penal Code against the petitioners is hereby quashed and they are acquitted of the charges.

Sd/-
(Goutam Bhaduri)
Judge

Ashok