

**HIGH COURT OF CHHATTISGARH, BILASPUR**

**CR.M.P. No. 2592 of 2018**

1. Ashutosh Kumar Tiwari, S/o. Mandhir Prasad Tiwari, Aged About 33 Years, R/o. C-181 Rama Lifecity, Sakri, P.S. Sakri, District Bilaspur, Chhattisgarh.
2. Prabhakar Tiwari, S/o. Vanshroop Tiwari, Aged About 44 Years, R/o. C-181 Rama Lifecity, Sakri, P.S. Sakri, District Bilaspur, Chhattisgarh
3. Smt. Saraswati Tiwari, W/o. Prabhakar Tiwari, Aged About 38 Years, R/o. C-181 Rama Lifecity, Sakri, P.S. Sakri, District Bilaspur Chhattisgarh
4. Mandhir Prasad Tiwari, S/o. Late Sampat Tiwari, Aged About 62 Years, R/o. Village Chaal, Tehsil Dharamjaigarh, District Raigarh, Chhattisgarh

**---- Petitioners**

**Versus**

1. Roshni Mishra, W/o. Ashutosh Tiwari, Aged About 26 Years, R/o. Near Bade Sai Mandir, Jai Prakash Nagar, Adhartal, Jabalpur, Madhya Pradesh
2. State Of Chhattisgarh, Through The Station House Officer, Police Station Chakarbhata, District Bilaspur, Chhattisgarh.

**---- Respondents**

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| For Petitioners     | : | Mr. Prateek Sharma with Mr. Tridib<br>Bhattacharya, Advocates |
| For Respondent No.1 | : | Mr. Kunal Das, Advocate                                       |
| For Respondent No.2 | : | Mr. Vaibhav A. Goverdhan, Panel Lawyer                        |

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**Hon'ble Shri Justice Goutam Bhaduri**

**Order On Board**

**24.01.2019**

Heard

1. The present petition is to quash the criminal proceeding pending against the petitioners under Section 498-A read with Section 34 of Indian Penal Code & Section 3 & 4 of Dowry Prohibition Act, which emanated from the Crime No.552 of 2017 at Police Station- Chakarbhata, Bilaspur.
2. The respondent No.1, Roshni Mishra, was married to Ashutosh Kumar Tiwari, petitioner No.1 on 05.06.2017 and thereafter, they could not go

along. Eventually, the respondent No.1 has lodged a report that she was subjected to torture by the family members i.e. in-laws for demand of dowry and on that report the case was registered.

3. The petitioners are present in person along-with their counsel and the respondent is also present along-with her counsel.
4. It is contended that both the petitioners and respondent have resolved the dispute and considering the nature of allegation and counter allegation, the respondent No.1 do not want to further continue her complaint and the parties have filed an application for mutual divorce, which stands allowed and they are separated. Therefore, no purpose would be served to continue this prosecution.
5. The parties are before the Court. The statement of the complainant Roshni Mishra was recorded before the Additional Registrar (Judicial). Perusal of the statement would show that she has entered into a settlement with the petitioners without any fear, favour or pressure. Therefore, she do not want to further prosecute her complaint in Crime No.552 of 2017, which was initially registered at Police Station-Chakarbhatta for the offence under Section 498A read with Section 34 of Indian Penal Code and Section 3 & 4 of the Dowry Prohibition Act.
6. The Hon'ble Supreme Court in **Gian Singh v. State of Punjab & Another<sup>1</sup>** 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

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1 (2012) 10 SCC 303

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 predominatingly 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.

7. Further, in case of ***Parbatbhai Aahir @ Parbatbhai Bhimsinhbhai Karmur & Ors. v. State of Gujarat & Ors.***<sup>2</sup> 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;

(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;

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<sup>2</sup> (2017) 9 SCC 641

(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, it appears that no purpose would be served in continuing the further investigation of FIR. The charge sheet has not been filed till date. Therefore, under the circumstances, following the principles laid down by the Supreme Court in the above cited cases, it is directed that the FIR dated 30.11.2017 registered at Police Station Chakarbhata, Bilaspur bearing Crime No.552 of 2017 for the offence under Section 498-A read with Section 34 of Indian Penal Code and Section 3 & 4 of the Dowry Prohibition Act against the petitioners is hereby quashed and they are acquitted of the charges.

**Sd/-**  
**(Goutam Bhaduri)**  
Judge