

HIGH COURT OF CHHATTISGARH, BILASPURCriminal Misc Petition No.83 of 2010

1. Smt. Rekha Poptani, W/o Shri Harish Poptani, Aged about 55 years
2. Harish Poptani, S/o Late Sahajram Poptani, Aged about 65 years

Both R/o Mekosabagh, Block No.30/A, Sindhi Colony, P.S. Jaripatka,
Nagpur (M.S.)

---- Petitioners

Versus

1. State of Chhattisgarh, Through Mahila Police Station, Raipur (C.G.)
2. Smt. Kiran, W/o Sunil Poptani, Aged about 31 years, Occupation Housewife, R/o C/o Mohandas Dhamejani Bansiwala Departmental Store, Ganj Road, Navapara, Tahsil Rajim, Distt. Raipur.

---- Respondents

For Petitioners: Mr. Amit Soni, Advocate.

For Respondent No.1 / State: -

Ms. Veena Nair, Deputy Advocate General.

For Respondent No.2: -

Mr. Hemant Kumar Agrawal, Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

23/06/2020

1. Proceedings of this matter have been taken-up through video conferencing.
2. The petitioners being mother-in-law and father-in-law of respondent No.2 have filed this petition under Section 482 of the CrPC for quashment of criminal proceeding registered against them for the offences punishable under Sections 498A and 323 read with Section 34 of the IPC on the ground that son of the petitioners & respondent No.2 have settled their dispute amicably and they have filed application for mutual divorce which is pending consideration before the jurisdictional Family Court.
3. Statement of respondent No.2 has been recorded before the

Additional Registrar (Judicial) in which she has clearly stated that the dispute has been resolved between them and she is not willing to continue the prosecution of the petitioners and they have also filed application for mutual divorce which is pending consideration before the jurisdictional Family Court.

4. I have heard learned counsel for the parties and went through the material available on 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 the matter of **Jitendra Raghuvanshi and others v. Babita Raghuvanshi and another**³, 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

1 (2003) 4 SCC 675

2 (2012) 10 SCC 303

3 (2013) 4 SCC 58

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 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 case in the light of the aforesaid proposition of law and particularly, taking into account the fact that the petitioners have filed affidavits in support of the petition and respondent No.2 has been examined before the Additional Registrar (Judicial) in which she has categorically admitted the fact of settlement of dispute amicably and that the petition for divorce is pending consideration, it would be appropriate to quash the prosecution of the petitioners in the larger interest of justice.
7. Accordingly, the petition is allowed and criminal proceedings in Criminal Case No.2508/2009 pending against the petitioners in the Court of the Judicial Magistrate First Class, Raipur for the offences punishable under Sections 498A & 323 read with Section 34 of the IPC, are hereby quashed and the petitioners are acquitted of the said charges.

Sd/-
(Sanjay K. Agrawal)
Judge