

HIGH COURT OF CHHATTISGARH, BILASPURCriminal Misc Petition No.547 of 2018

1. Krishna Kumar Chandrakar, Aged about 61 years, S/o Late Mantram Chandrakar.
2. Smt. Rashmi Chandrakar, Aged about 52 years, W/o Krishna Kumar Chandrakar.

Both R/o C-12, Pension Bada, Raipur, Tahsil & District Raipur (C.G.)

3. Shristi Chandrakar, Aged about 25 years, D/o Krishna Kumar Chandrakar, R/o S-5, Phase-II Kanchan Ganga Colony, Dindyal Upadhyay Nagar, Raipur, Tahsil & District Raipur (C.G.)

(Applicants)
---- Petitioners

Versus

1. State of Chhattisgarh, Through Police Station Mahila Thana, Raipur, Tahsil & District Raipur (C.G.)
2. Smt. Priya Chandrakar, Aged about 31 years, D/o Shri Kishore Chandrakar, R/o Shankar Nagar Ward, Kurud, P.S. Kurud, District Dhamtari (C.G.)

---- Respondents

For Petitioners: Mr. Kishore Bhaduri, Advocate.

For Respondent / State: -

Mr. Rahul Jha, Government Advocate.

For Respondent No.2: -

Mr. Mayank Chandrakar, Advocate with respondent No.2.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

15/07/2020

1. Proceedings of this matter have been taken-up through video conferencing.
2. Heard on the application for amendment in the petition impleading the complainant namely, Smt. Priya Chandrakar as party respondent No.2. It is allowed accordingly.
3. Mr. Mayank Chandrakar, learned counsel present through video conferencing, accepts notice on behalf of respondent No.2 / complainant and would submit that respondent No.2 is present with

him and she had already settled the matter with the petitioners amicably and divorce has already been granted to her dissolving her marriage with the son of petitioners No.1 & 2 and therefore appropriate order be passed for closing the criminal proceedings.

4. Mr. Kishore Bhaduri, learned counsel appearing for the petitioners, would also submit that the matter has been compromised between the parties and decree of divorce has already been granted to respondent No.2 and thereafter, parties have settled their dispute and the petitioners and respondent No.2, both have proceeded with their lives further. Therefore, registration of offence and proceeding under Section 498A read with Section 34 of the IPC and Sections 3 & 4 of the Dowry Prohibition Act pending against the petitioners in the Court of Judicial Magistrate First Class, Raipur vide Criminal Case No.2146/2017 (State of Chhattisgarh v. Hemant Chandrakar and others) be quashed.
5. I have heard learned counsel for the parties and considered their submissions made herein-above and went through the record with utmost circumspection.
6. 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 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: -

1 (2003) 4 SCC 675

2 (2012) 10 SCC 303

3 (2013) 4 SCC 58

“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 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.”

7. Reverting to the facts of the present case in the light of the settled legal position noticed herein-above, it is quite vivid that matrimonial dispute between the petitioners and respondent No.2 has come to an end and decree of divorce has already been granted on 10-4-2020 by the jurisdiction Family Court and thereafter, they have settled the dispute amicably. In that view of the matter chances of conviction of the petitioners is bleak and thus, it would be inappropriate to allow continuation of criminal proceedings against the petitioners any further and quashing the proceedings against them for offence under Section 498-A read with Section 34 of the IPC and Sections 3 & 4 of the Dowry Prohibition Act 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 and Sections 3 & 4 of the Dowry Prohibition Act would be fruitless and would be abuse of the process of the court.

8. Accordingly, the petition is allowed and criminal proceedings in Criminal Case No.2146/2017 (State of Chhattisgarh v. Hemant Chandrakar and others) pending against the petitioners in the Court of Judicial Magistrate First Class, Raipur for offence punishable under Section 498-A read with Section 34 of the IPC and Sections 3 & 4 of the Dowry Prohibition Act, are hereby quashed and the petitioners are acquitted of the said charges.

Sd/-
(Sanjay K. Agrawal)
Judge