

HIGH COURT OF CHHATTISGARH, BILASPURCriminal Misc Petition No.1078 of 2017

1. Diwaker Gupta S/o. Shri Udresh Gupta, aged about 28 years.
2. Udresh Gupta S/o. Late Shri Swaminath Gupta, aged about 58 years.
3. Smt. Nirmala Gupta W/o. Shri Udresh Gupta, aged about 55 years.
4. Ku.Kanak Gupta D/o. Shri Udresh Gupta, aged about 22 years.
5. Ku. Hemlata Gupta D/o. Shri Udresh Gupta, aged about 20 years.

All are residence of Village – Mathiya, Thana – Ghughali, Distt.-Maharajganj (Uttar Pradesh)

----- Petitioners

Versus

1. State of Chhattisgarh, through the District Magistrate, Surajpur, Distt.-Surajpur (CG)
2. Smt.Pinki Gupta W/o. Shri Diwakar Gupta, aged about 26 years, Permanent residence of Village & Post – Kunwer Bakhara, Distt.-Dewariya (Uttar Pradesh) at present Residence of House No.1083 Double Story Bhatgaon, Thana-Bhatgaon, Distt.-Surajpur (CG)

----- Respondents

For Petitioners: Mr.Sunil Sahu, Advocate

For Respondent No.1 / State: -

Mr. Ravi Kumar Bhagat, Dy. G.A.

For Respondent No.2: -

Mr.B.N.Nande, 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. By way of this CrMP, the petitioners seek quashment of Criminal Case No.1430/2017 pending against them

in the Court of the Chief Judicial Magistrate, Surajpur for offence punishable under Section 498-A of the IPC and Sections 3 & 4 of the Dowry Prohibition Act, 1961 registered on the basis of FIR lodged by respondent No.2 stating inter-alia that the matter has been compromised between the parties and they have settled their dispute amicably.

3. Mr.Sunil Sahu, learned counsel for the petitioners, would submit that since the dispute has been resolved between the parties and divorce has been taken place between petitioner No.1 and respondent No.2, it would be necessary to quash criminal prosecution launched against the petitioners.
4. Mr.B.N.Nande, learned counsel for respondent No.2, would support the submission made by learned counsel for the petitioners and submit that divorce has already been taken place between the parties and therefore, respondent No.2 is not willing to continue the prosecution.
5. I have heard learned counsel for the parties and considered their rival 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 another¹ and thereafter in the matter of Gian Singh v. State of Punjab², and ultimately, noticing the aforesaid decisions, finally, in Jitendra Raghuwanshi and others v. Babita Raghuwanshi and another³, 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

1 (2003) 4 SCC 675

2 (2012) 10 SCC 303

3 (2013) 4 SCC 58

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 light of the decisions rendered by the Supreme Court in the aforesaid judgments, it is quite vivid that petitioner No.1 and respondent NO.2 both have made statements on oath before this Court (before Additional Registrar, J.) that they have settled their dispute amicably and decree of divorce has already been granted and she is not willing to continue the prosecution 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 and Sections 3 & 4 of the Dowry Prohibition Act, 1961 would be in the ends of justice.

8. Accordingly, the petition is allowed and criminal

proceedings in Criminal Case No.1430/2017 pending against the petitioners in the Court of the Chief Judicial Magistrate, Surajpur for offence punishable under Section 498-A of the IPC and 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

B/-