

HIGH COURT OF CHHATTISGARH, BILASPURCriminal Misc Petition No.2304 of 2019

1. Vikas Kumar Kashyap, S/o Shri Ghanshyam Kori, Aged about 33 yrs.,
2. Ghanshyam Lal Kori, S/o Late Gajaru Kori, Aged about 61 years,
3. Nirmala Kashyap, W/o Shri Ghanshyam Lal Kori, Aged about 56 years,
4. Neelam Kashyap, D/o Shri Ghanshyam Lal Kori, Aged about 22 years,
5. Namrata Kashyap, D/o Shri Ghanshyam Lal Kori, Aged about 26 years,

All the above residents of Shivanand Nagar, Sector-3, Gurukripa, P.S. Khamtarai, District Raipur (C.G.)

---- Petitioners

Versus

1. State of Chhattisgarh, through District Magistrate, District Raipur (C.G.)
2. Smt. Preeti @ Geeta Kashyap, W/o Shri Vikas Kumar Kashyap, Aged about 34 years, R/o Sant Kavar Ram Chowk, Katora Talab, Civil Lines, District Raipur (C.G.)

---- Respondents

For Petitioners: Mr. Pragalbha Sharma, Advocate.

For Respondent No.1 / State: -

Mr. Ravi Kumar Bhagat, Deputy Government Advocate.

For Respondent No.2: -

Mr. Avinash Mishra, Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

31/01/2020

1. Marriage of petitioner No.1 and respondent No.2 took place on 24-1-2013, but thereafter, they could not live happily and that led to lodging of first information report by respondent No.2 against the petitioners who are husband, father-in-law, mother-in-law and sisters-in-law of respondent No.2, respectively, for offence punishable under Section

498A read with Section 34 of the IPC and ultimately, charge-sheet was submitted in the jurisdictional criminal Court on 3-10-2016, but thereafter, on 6-8-2019, joint application was preferred by petitioner No.1 & respondent No.2 for compounding of the offence on the basis of mutual settlement, but that was rejected by the trial Court on 7-8-2019 holding that offence under Section 498A of the IPC is not compoundable even with the leave of the court that lead to filing of this petition under Section 482 of the CrPC for compounding of the offence.

2. This Court on 23-10-2019 granted liberty to the parties to get their statements recorded before the Additional Registrar (Judicial) which they have recorded.
3. In the statement before the Court, respondent No.2 and petitioner No.1 have categorically stated that they have settled the dispute amicably and respondent No.2 has clearly stated that she is not willing to continue the criminal case in order to have good relation in future and they decided to live separately for which they have also moved an application for divorce. In that view of the matter, this petition is being considered.
4. Mr. Pragalbha Sharma, learned counsel appearing for the petitioners, submits that in view of the settlement between the parties, the chances of the petitioners for conviction of the offence punishable under Section 498A read with Section 34 of the IPC are bleak relying upon a decision of the Supreme Court in the matter of Jitendra Raghuvanshi and others v. Babita Raghuvanshi and another¹. Therefore, prosecution of the

1 (2013) 4 SCC 58

petitioners for offence punishable under Section 498A read with Section 34 of the IPC be quashed.

5. Mr. Avinash Mishra, learned counsel appearing for respondent No.2, would submit that petitioner No.1 and respondent No.2 have applied for divorce and respondent No.2 is also not willing to press her complaint.
6. I have heard learned counsel for the parties and considered their submissions made herein-above and went through the record with utmost circumspection.
7. 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 another² and thereafter in the matter of Gian Singh v. State of Punjab³, and ultimately, noticing the aforesaid decisions, finally, in Jitendra Raghuvanshi (supra), 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

² (2003) 4 SCC 675

³ (2012) 10 SCC 303

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.”

8. 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 in order to give a quietus to the matrimonial dispute, parties have settled their dispute and respondent No.2 has got her statement recorded holding that the dispute has already been settled between the parties.
9. In view of the aforesaid facts, since the parties have already moved on with their respective lives seeking closure and they have settled their matrimonial disputes 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 498A read with Section 34 of the IPC would be in the ends of justice, it would bring peace to them, rather allowing the continuation of prosecution for offence under Section 498A of the IPC, would be fruitless and would be abuse of the

process of the court.

10. In consequence, the petition is allowed and criminal proceedings in Criminal Case No.18597/2016 pending against the petitioners in the Court of the Judicial Magistrate First Class, Raipur for offence punishable under Section 498A read with Section 34 of the IPC, are hereby quashed and the petitioners are acquitted of the said charges.

Sd/-
(Sanjay K. Agrawal)
Judge

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