

HIGH COURT OF CHHATTISGARH, BILASPUR**Cr.M.P. No. 2534 of 2019**

1. Aditya Kumar Chandrapaxi, S/o Mahesh Chandrapaxi, aged 31 years,
2. Smt. Sarla Chandrapaxi, W/o Mahesh Chandrapaxi, aged 62 years,
3. Ku. Devyani Chandrapaxi, D/o Mahesh Chandrapaxi, aged 28 years,
4. Mahesh Kumar Chandrapaxi, S/o Rai Ji Chandrapaxi, aged 62 years, All R/o E 17 Annapurna Adesh Nagar Ward No. 43 Durg, P.S. - Padmanabhpur, Distt. - Durg (C.G.)

---- Applicants**Versus**

1. State of Chhattisgarh, Through - Police Station - Mahila Thana Durg, District Durg, Chhattisgarh
2. Smt. Annu Singh, W/o Aditya Kumar Chandrapaxi, aged about 29 years, R/o Road No.04, Kothari House Deepak Nagar, Durg P.S.- Kotwali Durg, Distt. - Durg (C.G.)
(Complainant)

---- Respondents

For Applicants	: Mr. Tarun Dansena, Advocate.
For Respondent No. 1	: Mr. Ravi Kumar Bhagat, Dy.GA
For Respondent No. 2	: Mr. Govind Dewangan, Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal**Order On Board****20/02/2020**

(1) This petition under Section 482 of the Cr.P.C. has been filed for quashment of the criminal proceedings in Criminal Case No. 37386 / 2018 registered in the court of

Judicial Magistrate, First Class, Durg for offence punishable under Section 498-A of the IPC. By the order dated 23.09.2019, the petitioner's application under Section 320 (1)(2) of the Cr.P.C. for compounding of the aforesaid offence has been rejected by the jurisdictional Magistrate.

(2) Learned counsel appearing for the petitioner would submit that the matter has been compromised between the parties and divorce on the basis of mutual consent has already been granted by the Family Court, Durg vide order 12.12.2018. He further submits that as per direction of this Court dated 16.01.2020, statements of petitioners as well as respondent No. 2 have been recorded before the Additional Registrar (Judicial), in which they have stated that they have amicably settled the dispute and, therefore, the criminal proceedings initiated against the petitioners may be quashed.

(3) Learned counsel for respondent No. 2 would submit that the matter has been compromised between the parties and statement to this effect has already made by respondent No. 2 on oath before this Court on 16.01.2020.

(4) I have heard learned counsel appearing for the parties and went through the record as well as statement on oath given by respondent No.2/complainant herein.

(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 **Jitendra Raghuwanshi** (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 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

1 (2003) 4 SCC 675

2 (2012) 10 SCC 303

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 present case in light of the decisions rendered by the Supreme Court in the aforesaid judgments (supra), it is quite vivid that in order to give a quietus to the matrimonial dispute, parties have settled their dispute amicably. Admittedly, decree of divorce has been granted to petitioner No.1 and respondent No.2 under Section 13(b) of the Hindu Marriage Act by the jurisdictional Family Court. In this case also respondent No.2 has got her statement recorded holding that the dispute has already been settled between the parties but ultimately, at the Bar it is submitted that there is no dispute outstanding between the parties and parties have settled the dispute amicably.

(7) In view of the aforesaid facts, since the parties have already moved on with their respective lives seeking closure and they have closed their matrimonial disputes and offence registered against them under the Indian Penal Code except Section 498-A of the IPC has been closed pursuant to their willingness and order of the court and mutual divorce has also taken place between the parties 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 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 would be fruitless and would be abuse of the process of the court.

(8) In consequence, the petition is allowed and criminal proceedings in Criminal Case No.37386/2018 pending against the petitioners in the Court of the Judicial Magistrate First Class, Durg for offence punishable under Section 498-A of the IPC is hereby quashed and the petitioners are acquitted of the said charges.

Sd/-

(Sanjay K. Agrawal)
Judge

D/-

