

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 65 of 2020

1. Faiz Ahmed S/o Shakil Ahmed Aged About 27 Years Resident Of S.P. Motor Parts , Near Anand Talkies, Balve Market Raipur Chhattisgarh.
2. Shakil Ahmed (Father In Law) S/o Late Kamaal Solanki Aged About 52 Years Resident Of S.P. Motor Parts , Near Anand Talkies, Balve Market Raipur Chhattisgarh.
3. Shabnam Parveen(Mother In Law) W/o Shaqeel Ahmed Aged About 46 Years Resident Of S.P. Motor Parts , Near Anand Talkies, Balve Market Raipur Chhattisgarh.
4. Riyaz Ahmed S/o Late Sheikh Maqbul Aged About 44 Years Resident Of R.N. - 227, Hudco, Bhilai, District Durg Chhattisgarh.

---- Petitioners

Versus

1. State Of Chhattisgarh Through The Station House Officer, Police Station, Civil Line Bilaspur Chhattisgarh.
2. Mahammed Shahid S/o Late Hazi Abdul Hussain Aged About 49 Years Resident Of Shiv Chowk , Kududand , Bilaspur , Police Station Civil Line, District Bilaspur Chhattisgarh.

---- Respondents

For Petitioners : Shri Kawaljeet Singh Saini, Advocate

For State : Shri Rakesh Sahu, Dy. Government Advocate

For Respondent No.2: Shri Atul Kumar Kesharwani, Advocate

Hon'ble Shri Justice Narendra Kumar Vyas

Order on Board

22.06.2021

1. The present petition under Section 482 of the Cr.P.C. has been filed seeking quashment of the FIR No. 405/2019 dated 23.06.2019 registered at Police Station Civil Line Bilaspur for committing offence under Section 452, 498-A, 294, 506(B), 34 IPC on account of amicable settlement arrived at between the parties.
2. As per the complaint made by respondent No. 2 who is father of wife of petitioner No. 1, it was contended that at the time of marriage of his daughter, petitioner No. 1 demanded Rs. 6 Lakhs

as dowry as well as gold and silver ornaments. It was further contented by the complainant in his compliant that after three months of the marriage, petitioner No. 3 who is mother- in-law, and petitioner No. 2 who is father-in-law of his daughter started torturing his daughter on demand of dowry. Further the contention of the respondent No. 2 is that on 7.09.2018, petitioners No. 2 and 3 called him and asked to take his daughter otherwise they will torture her and she will not be allowed to stay in her house unless he pays Rs. 10 Lakhs. On the basis of complaint made by the respondent No. 2, FIR has been registered against the Petitioners at Police Station Civil Line, Bilaspur on 21.06.2019.

3. It has been contended by the petitioners that petitioners have filed writ petition before this Court bearing WPCR No. 507 /2019 against registration of FIR against them and this Court has dismissed the petition on 19.07.2019. Thereafter, writ appeal No. 426/2019 was filed before the Hon'ble Division Bench of this Court, Hon'ble Division Bench considered the submissions, materials on record and dismissed the appeal on 24.10.2019.
4. During the pendency of the investigation, petitioners and respondent No. 2 settled their grievances and settlement agreement dated 20.11.2019 was recorded before the Mediator, District Court, Bilaspur. The relevant clauses of the agreement are extracted below:

“ 1. आवेदक श्री मोह० शाहिद द्वारा प्रथम अपर सत्र न्यायाधीश, बिलासपुर के न्यायालय में प्रस्तुत एम०जे०सी० क्रमांक-37/19, अंतर्गत धारा 439 (2) द०प्र०सं० के आवेदन को उभयपक्ष स्वेच्छया समझौता के आधार पर उक्त न्यायालय से वापस लेगा ।

2. आवेदिका श्रीमती शिफा अंजूम एवं उनके पति श्री फैज अहमद द्वारा स्वेच्छया सहमति के आधार पर मुस्लिम रीति-रिवाज अनुसार विवाह विच्छेद उपरांत पृथक-पृथक रहना स्वीकार किये ।

3. उक्त आधार पर श्रीमती शिफा अंजम को उनकी विवाह के दौरान उसके पिता एवं परिवार वालों से प्राप्त स्त्रीधन को प्रकरण में पेश सूची अनुसार स्त्रीधन को अनावेदकगण, आवेदिका को वापस करेंगे । यदि आवेदिका के विवाह के समय उसे उपाहर में प्राप्त स्त्रीधन सामान अनावेदकगण के पास उपलब्ध न हो या उपयोग के दौरान नष्ट हो गया हो तो उसके एवज में अनावेदकगण, श्रीमती शिफा

अंजूम को चेक के माध्यम से 2,00,000/- (दो लाख रुपये) अदा करेंगे ।

4. आवेदिका श्रीमती शिफा अंजूम के विवाह में उसके पिता द्वारा उपहार स्वरूप दी गयी राशि 5,00,00/- (पांच लाख रुपये) अर्थात् पूर्ण वणित राशि के अनुसार कुल राशि 7,00,000/- (सात लाख रुपये) शिफा अंजूम के पति एवं शेष अनावेदकगण द्वारा आवेदिका श्रीमती शिफा अंजूम को अदा करेंगे । मध्यस्थता के दौरान आवेदक श्री शकील अहमद द्वारा पंजाब एण्ड सिन्ध बैंक, शाखा के०के० रोड, रायपुर का चेक क्रमांक-000548, दिनांकित 14/11/2019, राशि 7,00,000/- (सात लाख रुपये मात्र) का आवेदिका श्रीमती शिफा अंजूम के नाम पर जारी चेक, जो कि वर्तमानमें बिरादरी के मुखिया हाजी सलीम चौहान, दुर्ग को दिया गया ।

5. अनावेदक फैज अहमद, परवीन, शकील एवं रियाज अहमद के विरुद्ध आरक्षी केन्द्र सिविल लाईन, बिलासपुर में दर्ज अपराध क्रमांक-405/19, अंतर्गत धारा 452, 498 ए, 294, 506 बी, सहपठित धारा 34 भा०द०वि० एवं धारा 4 मुस्लिम महिलाओं का संरक्षण अधिनियम में श्रीमती शिफा अंजूम एवं उसके पिता श्री मोहम्मद शाहिद द्वारा स्वेच्छया समझौते के आधार पर प्रकरण का निराकरण कराने में हर सम्भव मदद करेंगे । "

5. Before filing of the petition, settlement agreement dated 22.11.2019 has been arrived at and on the basis of the settlement petitioners have prayed for quashing of the FIR. The respondent No. 2 has also filed reply in which he has mentioned that in the changed circumstances, respondent No. 2 original complainant and his daughter namely Shifa Anjum do not want to continue with the aforesaid criminal case lodged at the Police Station Civil Lines, Bilaspur.
6. This Court vide its order dated 14.01.2021 has directed the petitioners and respondent No. 2 to appear before the Additional Registrar (Judicial) of this Court for recording of their statements on 19th January, 2021. In pursuance of the direction of this Court, the petitioners entered their appearance and stated in unequivocal terms that now there is no dispute between the petitioners and respondent No.2. On account of settlement agreement respondent No. 2 is not willing to continue with the criminal proceedings and prayed for quashment of the FIR No. 405/2019.

7. Hon'ble the Supreme Court in case of **State of Madhya Pradesh Vs. Laxmi Narayan & others**¹, has summarized the law for quashing of FIR, the relevant paragraphs are extracted below:-

“15.1 That the power conferred under Section 482 of the Code to quash the criminal proceedings for the non-compoundable offences under Section 320 of the Code can be exercised having overwhelmingly and predominantly the civil character, particularly those arising out of commercial transactions or arising out of matrimonial relationship or family disputes and when the parties have resolved the entire dispute amongst themselves;

15.5 While exercising the power under Section 482 of the Code to quash the criminal proceedings in respect of non-compoundable offences, which are private in nature and do not have a serious impact on society, on the ground that there is a settlement/compromise between the victim and the offender, the High Court is required to consider the antecedents of the accused; the conduct of the accused, namely, whether the accused was absconding and why he was absconding, how he had managed with the complainant to enter into a compromise, etc.”

8. Though the offence under Section 498A is not compoundable but this can be quashed with the leave of this Court. The law has been settled by the Hon'ble Supreme Court in case of **K. Srinivas Rao Vs. D.A. Deepa**², wherein the Supreme Court has quashed the proceeding initiated under Section 498-A of I.P.C. on the count that husband and wife have mutually settled their dispute.
9. In view of the said legal position, considering the facts and circumstances of the case, the fact that the parties have amicably settled dispute between them and they do not want to continue with the criminal case, this court is of the considered opinion that there is sufficient material for this court to form an opinion to quash the criminal proceeding initiated against the petitioners. Further, this court is of the opinion that the continuation of criminal proceeding will be nothing, but to an abuse of process of law. Accordingly, FIR bearing registration No. 405/2019 registered against the petitioners at Police Station-

¹ (2019) 5 SCC 688

² (2013) 5 SCC 226

Civil Line, Bilaspur (C.G.) for committing offence punishable under Sections 452, 498-A, 294, 506 (B), 34 of I.P.C., deserve to be and are hereby quashed in the interest of justice.

10. In view of the above, the present petition is allowed. No order as to costs.
11. Copy of this order be sent to the concerned Judicial Magistrate for necessary compliance and closure of the proceedings.

Sd-
(Narendra Kumar Vyas)
Judge

kishore