

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Misc. Petition No. 198 of 2020**

- Sushil Kumar Agrawal S/o Vishnu Prasad Agrawal, Aged About 42 Years R/o State Bank Colony Mahoba Bazar, P.S. Amanaka, Raipur, District Raipur Chhattisgarh.

---- Petitioner**Versus**

1. State Of Chhattisgarh Through Station House Officer, P.S. Amanaka Raipur, District Raipur Chhattisgarh
2. Lalit Kumar Verma S/o Chandudas Verma, Aged About 38 Years R/o A/85, Adarsh Nagar, Kushalpur, Purani Basti, Raipur Chhattisgarh

---Respondents

For Petitioner	: Shri Sushobhit Singh, Advocate
For Respondent No. 1/State	: Shri Animesh Tiwari, Dy. Advocate General
For Respondent No.2	: Shri Chakresh Tiwari, Advocate

Hon'ble Shri Justice Sanjay K. Agrawal**Order on Board****05.3.2021.**

1. The petitioner has preferred this petition under Section 482 of the Code of Criminal Procedure, 1973 seeking quashment of criminal proceedings in connection with Criminal Case No.895/2013 for the offence punishable under Section 384 of IPC pending before the Court of Judicial Magistrate First Class, Raipur.

2. Learned counsel for the petitioner submits charges under Section 420 and 384 of IPC were framed against the petitioner, however application under Section 320 of the CrPC has been filed by present petitioner along with complainant before the Court of Judicial Magistrate First Class for compounding the offence on the basis of compromise arrived at between the parties with a prayer to close the proceedings. Statement of the

complainant was also recorded before the learned Magistrate in which he has stated that dispute has been amicably settled between the complainant and the petitioner and the complainant is not willing to prosecute the case further. The learned Magistrate by partly allowing the application compounded the offence under Section 420 of the IPC, however, offence under Section 384 IPC was not compounded being a non-compoundable offence.

3. Learned counsel for respondent No.2 would submit that the matter has been amicably settled between the parties and there is no dispute survive between them.

4. I have heard learned counsel for the parties, considered their submissions and went through the records with utmost circumspection.

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 the matter of **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: -

“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

1 (2003) 4 SCC 675

2 (2012) 10 SCC 303

3 (2013) 4 SCC 58

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.”

6. Reverting to the facts of the present case in light of the aforesaid principle of law laid down by their Lordships of the Supreme Court, it is quite vivid that offence under Section 384 of the IPC is non compoundable offence, however taking into consideration that the parties have settled their dispute amicably as stated on oath before the trial Court and further considering that offence under Section 420 IPC has already been compounded with leave of the Court and considering the statement of the parties that they have settled their dispute amicably, I am satisfied that it is a fit case where inherent jurisdiction of this Court under Section 482 of the CrPC can be exercised by quashing the criminal proceedings pending against the petitioner, as they have resolved the dispute amicably.

7. Accordingly, the petition is allowed and criminal proceedings in Criminal Case No.895/2013 (State Vs. Sushil Agrawal) pending against the petitioner in the Court of Judicial Magistrate First Class, Raipur for the offence punishable under Section 384 IPC is hereby quashed and the petitioner is acquitted of the said charge.

Sd/-

(Sanjay K. Agrawal)
JUDGE

Bini