

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Cr.M.P. No. 131 of 2021

1. Manish Sahu, S/o Shri Yuvraj Sahu, Aged about 27 yrs.
2. Yuvraj Sahu, S/o, Late Shivadaya Sahu, Aged about 54 years,
3. Lukeshwari Sahu, W/o Shri Yuvraj Sahu, Aged about 45 years,
4. Bahura Bai Sahu, W/o Late Shri Shivadaya Sahu, Aged about 73 years,

All the above residents of, Village Kuruskera, P.S. Rajim, District – Gariaband (C.G.)

---- Petitioners

Versus

1. State of Chhattisgarh, Through District Magistrate, District Raipur (C.G.)
2. Smt. Reshma Sahu, W/o Shri Manish Sahu, Aged about 20 years, Village Doma, P.S. Arang, District – Raipur (C.G.)

---- Respondents

For Petitioners : Mr. Pragallabh Sharma, Advocate.
For Respondent No. 1 : Mr. Shubha Shrivastava, PL
Respondent No. 2 : Mr. Aditya Tiwari, Advocate.

Hon'ble Shri Justice Narendra Kumar Vyas

Order on Board

02.07.2021

1. The petitioners have filed the instant petition under Section 482 of the Cr.P.C. seeking quashment of the entire proceedings in Criminal Case No. 617/2019 pending before the Judicial Magistrate, First Class, Rajim District- Gariaband arising out of FIR No. 29/2019 registered at Police Station Rajim, District Gariaband for the offence punishable under Section 498A read with Section 34 of the IPC on account of amicable settlement arrived at between the parties.
2. The facts as projected by the petitioners are that marriage of respondent No. 2/complainant was solemnized with the petitioner No. 1 on 20.4.2018 as per Hindu customary rites and

rituals and soon after the marriage there were mutual differences between them, which ultimately led to levelling allegations against each other and their family members. Thereafter, the respondent No. 2/complainant lodged FIR on 3.2.2019 against the petitioners under Section 498-A read with Section 34 of the Indian Penal Code. Thereafter, the charge sheet has been filed under Section 498-A read with Section 34 of the IPC before the trial Magistrate, which was registered as Criminal Case No. 617/2019.

3. Learned counsel for the petitioners would submit that petitioners have preferred the present Cr.M.P. for quashing of the entire proceedings arising out of FIR No. 29/2019 as well as proceedings under Criminal Case No. 617/2019 (State of Chhattisgarh vs. Manish Sahu & others). He further submits that the instant petition has been filed for quashment of the charge-sheet and FIR on the strength of settlement arrived between the petitioners and respondent No. 2 and now they don't want to continue with the criminal case. He further submits that the petitioners and respondent No. 2 have decided to part way by mutual divorce as per the prevalent custom practice of their community, the same having been done in the presence of the respectable members in the community meeting.
4. This Court vide its order dated 09.02.2021, has directed the petitioners and respondent No. 2 to appear before the Additional Registrar (Judicial) of this Court for recording of their statements on 24th February, 2021. In pursuant to the direction of this Court, the petitioners and respondent No. 2 entered their appearance and stated in unequivocal terms that now there is no dispute between them, respondent No. 2/complainant is not willing to continue with the criminal proceedings and prayed for quashment of the FIR No. 29/2019 as well as Criminal Case No. 617/2019. She has stated that she has voluntarily deposed that statement, it has been executed without fear, pressure or undue influence from the petitioner.

5. 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 impart 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.”

6. 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.
7. 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 petitioner. 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, Criminal Case No. 617/2019 (*State of Chhattisgarh vs Manish Sahu and others*) pending in the Court of Judicial Magistrate, First Class, Rajim, District Gariaband as well as FIR bearing registration No. 29/2019 registered against the petitioners at Police Station-

¹ (2019) 5 SCC 688

² (2013) 5 SCC 226

Rajim, Distt. Gariaband for committing offence punishable under Section 498-A read with Section 34 of I.P.C., deserve to be and are hereby quashed in the interest of justice.

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

Sd/-
(Narendra Kumar Vyas)
Judge

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