

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Cr.M.P. No. 155 of 2021

1. M. Bhupesh Son Of M. Neelachalam Aged About 35 Years R/o. Qtr. No. 2 A, Street No. 2, Bhilai, Tahsil And District Durg (Chhattisgarh)
2. M. Neelachalam Son Of Late M. Nokyaya Aged About 65 Years R/o. Qtr. No. 2 A, Street No. 2, Bhilai, Tahsil And District Durg (Chhattisgarh)
3. M. Laxminarayan Son Of Late Singh Pillai Aged About 52 Years R/o. Qtr. No. 1-B, Street No. 17, Sector-5, Bhilai, Tahsil And District Durg (Chhattisgarh)

---- Petitioners

Versus

1. State Of Chhattisgarh Through The Station House Officer, Mahila Thana Durg, District Durg (Chhattisgarh), District : Durg, Chhattisgarh
2. Smt. M. Shweta Wife Of M. Bhupesh Aged About 27 Years R/o. Qtr. No. 14-F, Street No. 4, Sector-4, Bhilai, Tahsil And District Durg (Chhattisgarh)

---- Respondents

For Petitioners : Shri T.K. Jha, Advocate
For State : Shri Ashish Gupta, Panel Lawyer
For Respondent No.2: Shri D. Kushwaha, Advocate

Hon'ble Shri Justice Narendra Kumar Vyas

Order on Board

30.07.2021

1. The present petition under Section 482 of the Cr.P.C. has been filed seeking quashment of the entire proceedings in Criminal Case No. 11518/2016 pending before the learned Chief Judicial Magistrate First Class, District-Durg (C.G.) arising out of FIR No. 22/2016 registered at Police Station - Mahila Thana, Durg District – Durg for the offence punishable under Section 498/34 of the IPC and Section 4 of Dowry Prohibition Act on account of amicable settlement arrived at between the parties.
2. Learned counsel for the petitioner would submit that marriage was solemnised between the petitioner No. 1 and respondent No. 2 on 13.02.2016 under the Hindu customary rites and rituals

but there was some dispute. Respondent No. 2 made a complaint before police station Mahila Thana, Durg, District – Durg against the petitioners and on the basis of complaint, FIR No. 22/2016 for the offence punishable under Section 498/34 of the IPC and Section 4 of Dowry Prohibition Act was registered against the petitioners. Charge-sheet was filed before the learned Judicial Magistrate First Class, Durg which is registered as Criminal Case No. 11518/2016 and the trial is pending.

3. Learned counsel for the petitioners would submit that he has filed the present Cr.M.P. for quashing of the entire proceedings arising out of FIR No. 22/2016 as well as proceedings under Criminal Case No. 11518/2016 (State of Chhattisgarh vs. M. Bhupesh and Others) on the strength of settlement arrived at between the petitioner No.1 and respondent No. 2 and now they don't want to continue with the criminal case. He further submits that the petitioner No.1 and respondent No. 2 have applied for mutual divorce on 14.01.2021 which is pending consideration before the Family Court, Durg.
4. This Court vide its order dated 28.06.2021 has directed petitioner No.1 and respondent No. 2 to appear before the Additional Registrar (Judicial) of this Court for recording of their statements on 19th July, 2021. In pursuant to the direction of this Court, petitioner No.1 and respondent No. 2 entered their appearance and stated in unequivocal terms that now there is no dispute between them, respondent No. 2 is not willing to continue with the criminal proceedings and prayed for quashment of the FIR No. 22/2016 as well as Criminal Case No. 11518/2016. She has stated that she has voluntarily deposed that statement, it has been executed without fear, pressure or undue influence from the petitioners.
5. Hon'ble 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-

¹ (2019) 5 SCC 688

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.”

6. Though, the offence under Section 498 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 proceedings will be nothing, but an abuse of process of law. Accordingly, Criminal Case No. 11518/2016 (*State of Chhattisgarh vs M. Bhupesh and Others*) pending before the learned Chief Judicial Magistrate, District – Durg as well as FIR bearing registration No. 22/2016 registered against the petitioners at Police Station- Mahila Thana, Durg, District- Durg (C.G.) for committing offence punishable under

² (2013) 5 SCC 226

Section 498/34 of I.P.C. and Section 4 of Dowry Prohibition Act, 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

Deshmukh