

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 172 of 2021

1. Shishir Singhaniya S/o Shri Rama Singhaniya Aged About 33 Years R/o Opp. A/120, Ageyay Nagar Colony Bilaspur, Tahsil And District Bilaspur (Chhattisgarh).
2. Rama Singhaniya S/o Late Hukumchand Singhaniya Aged About 58 Years R/o Opp. A/120, Ageyay Nagar Colony Bilaspur, Tahsil And District Bilaspur (Chhattisgarh).
3. Smt. Meena Singhaniya W/o Rama Singhaniya Aged About 54 Years R/o Opp. A/120, Ageyay Nagar Colony Bilaspur, Tahsil And District Bilaspur (Chhattisgarh).
4. Gaurav Singhaniya S/o Shri Rama Singhaniya Aged About 21 Years R/o Opp. A/120, Ageyay Nagar Colony Bilaspur, Tahsil And District Bilaspur (Chhattisgarh).

---- Petitioners

Versus

1. Smt. Nikita Singhaniya W/o Shri Shishir Singhaniya Aged About 30 Years R/o Pramod Singhal, Dhanora Road, Opposite Deshmukh Marble Borsi, Durg, District Durg (Chhattisgarh).
2. State of Chhattisgarh Through Superintendent Of Police, Durg, District Durg (Chhattisgarh).

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For Petitioners	:	Mr. Tarendra Kumar Jha and Mr. Divya Bhagat, Advocates.
For respondent No.1	:	Mr. Praveen Shrivastava, Advocate.
For Respondent No.2	:	Mr. Devendra Pratap Singh, Dy.A.G. Advocate

Hon'ble Shri Justice Narendra Kumar Vyas

Order on Board

23-08-2021

1. The petitioners have preferred the present petition under Section 482 of the Cr.P.C seeking quashment of the entire proceedings in Criminal Case No. 10730 of 2016 pending before the learned Judicial Magistrate First Class Durg arising out of FIR No.0019 of 2016 registered at Police Station Durg, District – Durg for the offence punishable under Section 498-A of the IPC and Sections 4 & 6 of Dowry Prohibition Act, wherein the trial

court rejected the application of compromise filed under Section 320(2) of Cr.P.C., for compounding the offence under Section 498-A of IPC and Sections 4 & 6 of Dowry Prohibition Act.

2. The case of the prosecution, in brief, is that that the marriage was solemnised between the petitioner No.1 (husband) and respondent No. 2 (wife) on 07-12-2015 under the Hindu rites and customs. After marriage, there was some dispute between the husband and wife and thereafter respondent No.1/wife made a complaint on 7-10-2016 to Station House Officer Durg alleging that she was subjected to cruelty in connection with demand of dowry by her husband and family members, pursuant to which FIR No. 0019 of 2016 was registered against them and after investigation charge sheet was filed against the petitioners.
3. Learned counsel for the petitioners would submit that he has filed the present Cr.M.P. for quashing of the entire proceedings of Criminal Case No. 10730 of 2016 arising out of FIR No. 0019 of 2016. He further submits that he has filed this Cr.M.P. for quashment of the criminal proceedings of criminal case no.10730 of 2016 on the strength of settlement arrived at between the petitioner No.1 and respondent No. 1 and now they don't want to continue with the criminal case. He further submits that the petitioner No.1 and respondent No.1 have applied for mutual divorce which is pending before the Family Court, Durg. The parties filed an application for compromise before the trial Court, but the trial court rejected the same stating that the offences under Section 498-A of IPC and Sections 4 & 6 of Dowry Prohibition Act are non-compoundable.
4. This Court vide its order dated 6-8-2021 has directed the petitioners and respondent No. 1 to appear before the Additional Registrar (Judicial) of this Court for recording of their statements on 13-08.2021. In pursuance of the direction of this Court, the petitioners and respondent No. 1 entered their appearance and stated in unequivocal terms that now there is no dispute between them, respondent No. 1 is not willing to continue with the criminal proceedings and prayed for quashment of the FIR No. 0019 of

2016 as well as Criminal Case No. 10730 of 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 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 non-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

¹ (2019) 5 SCC 688

² (2013) 5 SCC 226

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 an abuse of process of law. Accordingly, Criminal Case No. 10730 of 2016 pending before the learned Judicial Magistrate First Class, Durg as well as FIR bearing registration No. 0019 of 2016 registered against the petitioners at Police Station- Durg District- Durg (C.G.) for committing offence punishable under Section 498-A of I.P.C., and Sections 4 & 6 of Dowry Prohibition Act, deserves to be and are hereby quashed.

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

Raju