

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**CRMP No. 254 of 2021**

1. Zoheb Gani Kuraishi S/o Kamrul Gani Kuraishi,
Aged about 32 years, R/o 18/150 Near Kamla Nivas,
Azad Mohalla, Distt. Bhilwadi, Rajasthan.

2. Fahmida Qureshi W/o Kamrul Ghani Qureshi, Aged
about 57 years.

3. Kamrul Ghani Qureshi S/o Late Abdul Ghani
Qureshi, Aged about 67 years.

All above R/o 18/150 Near Kamla Nivas, Azad
Mohalla, Distt. Bhilwadi, Rajasthan.

4. Shiba Qureshi W/o Muhammad Nadim Hanif, Aged
about 32 years.

5. Muhammad Nadim Hanif S/o Muhammad Saleem, Aged
about 35 years.

Both are R/o B18/502, Nyati Elan, Bakori Road,
Wagholi, Distt. Pune, Maharashtra.

---Petitioners**Versus**

1. State of Chhattisgarh, Through S.H.O. Police
Station Mahila Thana, Distt. Raipur,
Chhattisgarh.

2. Smt. Farha Moin Khan (Smt. Farha Khan), Aged
about 34 years, W/o Zoheb Gani Kuraishi, R/o
Mukherji Bada, Bairan Bazar, Raipur,
Chhattisgarh.

--- Respondents

For Petitioners :-

Mr. ShaktiRaj Sinha, Advocate

For Respondent No. 1/State :-

Mr. Suyash Dhar, P.L.

For Respondent No. 2 :-

Mr. Sachidanand Yadav, Advocate

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

26/03/2021

1. Petitioners herein seek quashment of Crime No. 02/2020 registered against them at Police Station Mahila Thana, Raipur for offence under Sections 498-A and 377 read with Section 34 of IPC at the instance of respondent No. 2/complainant.
2. Pursuant to issuance of notice by this Court, liberty was given to the petitioners as well as respondent No. 2 by order dated 08/03/2021 to get their statements recorded before the A.R.(J) in which particularly, respondent No. 2/complainant has clearly stated that the matter has been settled amicably between the parties and she is living separately from the petitioners and there is no dispute subsisting at present,

therefore, prosecution against the petitioners in the aforesaid criminal case be quashed.

3. I have heard learned counsel for the parties who have clearly stated that petitioner No. 1/husband and respondent No. 2/wife have settled their dispute amicably and they are living separately, as such, no dispute is subsisting at present between them.

4. 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 another¹ and thereafter, in the matter of Gian Singh v. State of Punjab², and ultimately, noticing the aforesaid decisions, finally, in the matter of Jitendra Raghuwanshi and others v. Babita Raghuwanshi and another³, their Lordships of the Supreme Court in the context of matrimonial disputes resulting into criminal proceedings, held as under: -

1 (2003) 4 SCC 675

2 (2012) 10 SCC 303

3 (2013) 4 SCC 58

"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 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."

5. 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 parties have settled their dispute amicably and have examined themselves before the A.R.(J) wherein they have stated that the dispute has been settled amicably between them and respondent No. 2/complainant is living separately from the petitioners and has no grievance at present, as such, considering their statement, it would be in the interest of justice to quash the FIR registered against the petitioners at the instance of respondent No. 2/complainant. Consequently, Crime No. 02/2020 registered against the petitioners at Police Station Mahila Thana, Raipur for offence under Sections 498-A and 377 read with Section 34 of IPC is hereby quashed.

6. Accordingly, this writ petition is allowed to the extent indicated herein-above. No cost(s).

Sd/-
(Sanjay K. Agrawal)
Judge

Harneet