

AFR

HIGH COURT of CHHATTISGARH, BILASPUR

CRMP No. 653 of 2021

Tarandeep Kaur W/o Maninder Jeet Singh Aged About 33 Years At Besides Jai Bhole Complex, Behind Mata Garage, Pandri, District Raipur Chhattisgarh., District : Raipur, Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through Station House Officer Of Police Station Civil Lines, Raipur Chhattisgarh., District : Raipur, Chhattisgarh
2. Maninder Jeet Singh Sandhawalia S/o Manjit Singh Sandhawalia Aged About 35 Years Besides Jai Bhole Complex Behind Mata Garage, Pandri , District Raipur Chhattisgarh.
3. Ranjit Kaur W/o Manjit Singh Sandhawalia Aged About 60 Years Besides Jai Bhole Complex Behind Mata Garage, Pandri , District Raipur Chhattisgarh.

---- Respondents

For Petitioner	:	Shri Vinay Nagdev, Advocate
For State/respondent No.1	:	Shri Aditya Tiwari, Panel Lawyer
For Respondents No. 2 & 3.	:	Shri Lukesh Kumar Mishra, Advocate

S.B.: Hon'ble Shri Parth Prateem Sahu, Judge

Order on Board

18/10/2021

1. The petitioner/complainant has filed this petition challenging order dated 24.2.2021 passed by learned Chief Judicial Magistrate, Raipur (CG) whereby the application filed by the petitioner for compounding of the offences under Sections 498-A, 506, 323 read with Section 34 IPC was partly allowed only with respect to offence under Sections 323, 506 and 34 IPC.

2. Shri Vinay Nagdev, learned counsel for the petitioner would submit that the petitioner got married with respondent No.2 in the year 2010. Due to some trivial dispute, petitioner lodged report to the concerned police station against the respondent-husband in the year 2020 making allegation of commission of offence under Sections 498-A, 506, 323 read with Section 34 IPC. After due investigation, charge sheet was filed before the Court of competent jurisdiction by the investigating agency. During pendency of the criminal case before the Court of Chief Judicial Magistrate, Raipur, the petitioner and respondents No. 2 and 3 have entered into a settlement which made the petitioner to file an application under Section 320 (2) of the Code of Criminal Procedure, specifically pleading that she has entered into compromise with respondents No. 2 and 3 with her freewill and dispute between the parties have been resolved and have sought permission to compromise the case. Except for the offence under Section 498-A IPC, application for other offences was allowed on the ground that the offence under Section 498-A IPC is non-compoundable. He submits that though the offence under Section 498-A IPC is not compoundable under Section 320 Cr.P.C., but Hon'ble the Supreme Court in its judgment has held that the offence of private nature, commercial and matrimonial relationship or family dispute can be permitted to be compounded in exercise of the jurisdiction under Section 482 Cr.P.C. He placed reliance upon the judgment of Hon'ble Supreme Court in **Gian Singh Vs. State of Punjab and Another** (2012) 10 SCC 303. He further submits that after entering into compromise, the parties are residing together happily and discharging their duties towards the family.
3. Shri Aditya Tiwari, learned counsel for the State submits that the offence under Section 498-A IPC is non compoundable. Hence, learned Magistrate has rightly dismissed the application filed by the petitioner and respondents No. 2 and 3 under Section 320

Cr.P.C. However, he do not dispute the submission of the counsel for the petitioner that Hon'ble Supreme Court has held that the offence relating to matrimonial dispute, which is private in nature, can be compromised and the criminal proceedings can be quashed or set aside.

4. Shri Lukesh Kumar Mishra, learned counsel for respondents No.2 & 3 submits that marriage between the petitioner and respondent No.2 have taken place in the year 2010. They resided together for long period and from their wedlock, they are blessed with two children. During pendency of the criminal proceedings before the Court of CJM, parties have entered into compromise and have settled their dispute. Now the petitioner as well as respondents No. 2 & 3 are residing together in matrimonial home of the petitioner along with their children. He submits that in view of the aforementioned facts and circumstances of the case and the ruling of the Hon'ble Supreme Court, the criminal proceedings be quashed.
5. I have heard learned counsel for the parties.
6. Perusal of the impugned order would show that application filed under Section 320 Cr.P.C. by the petitioner was allowed partly and offence under Section 498-A IPC is not permitted to compound on the ground that under Section 320 Cr.P.C., offence under Section 498-A IPC is non compoundable. Hon'ble the Supreme Court in the case of **B.S. Joshi and Ors. Vs. State of Haryana and Anr.** reported in (2003) 4 SCC 675 has considered the issue of quashing of criminal proceedings arising out of matrimonial dispute particularly for the offence under Section 498-A IPC and held thus:-

“13. The observations made by this Court, though in a slightly different context, in G.V. Rao v. L.H.V. Prasad & Ors. [(2000) 3 SCC

693] are very apt for determining the approach required to be kept in view in matrimonial dispute by the courts. It was said that there has been an outburst of matrimonial disputes in recent times. Marriage is a sacred ceremony, the main purpose of which is to enable the young couple to settle down in life and live peacefully. But little matrimonial skirmishes suddenly erupt which often assume serious proportions resulting in commission of heinous crimes in which elders of the family are also involved with the result that those who could have counselled and brought about rapprochement are rendered helpless on their being arrayed as accused in the criminal case. There are many other reasons which need not be mentioned here for not encouraging matrimonial litigation so that the parties may ponder over their defaults and terminate their disputes amicably by mutual agreement instead of fighting it out in a court of law where it takes years and years to conclude and in that process the parties lose their "young" days in chasing their "cases" in different courts.

14. There is no doubt that the object of introducing Chapter XX-A containing Section 498A in the Indian Penal Code was to prevent the torture to a woman by her husband or by relatives of her husband. Section 498A was added with a view to punishing a husband and his relatives who harass or torture the wife to coerce her or

her relatives to satisfy unlawful demands of dowry. The hyper-technical view would be counter productive and would act against interests of women and against the object for which this provision was added. There is every likelihood that non-exercise of inherent power to quash the proceedings to meet the ends of justice would prevent women from settling earlier. That is not the object of Chapter XXA of Indian Penal Code.”

7. The Hon’ble Supreme Court in case of **Gian Singh** (supra) while considering its earlier ruling in *Shiji alias Pappu & ors Vs. Radhika & anr.* reported in (2011) 10 SCC 705 has held thus :-

“**41.** In *Shiji vs. Radhika* this Court considered the exercise of inherent power by the High Court under Section 482 in a matter where the offence was not compoundable as the accused was already involved in commission of the offences punishable under Sections 354 and 394 IPC. The High Court rejected the prayer by holding that the offences with which appellants were charged are not ‘personal in nature’ to justify quashing the criminal proceedings on the basis of a compromise arrived at between the complainant and the appellants. This Court considered earlier decisions of this Court, the provisions contained in Sections 320 and 394 of the Code and in paragraphs 17, 18 and 19 (pgs. 712 and 713) of the Report held as under:

“17. It is manifest that simply because

an offence is not compoundable under Section 320 CrPC is by itself no reason for the High Court to refuse exercise of its power under Section 482 CrPC. That power can in our opinion be exercised in cases where there is no chance of recording a conviction against the accused and the entire exercise of a trial is destined to be an exercise in futility. There is a subtle distinction between compounding of offences by the parties before the trial court or in appeal on the one hand and the exercise of power by the High Court to quash the prosecution under Section 482 CrPC on the other. While a court trying an accused or hearing an appeal against conviction, may not be competent to permit compounding of an offence based on a settlement arrived at between the parties in cases where the offences are not compoundable under Section 320, the High Court may quash the prosecution even in cases where the offences with which the accused stand charged are non- compoundable. The inherent powers of the High Court under Section 482 CrPC are not for that purpose controlled by Section 320 CrPC.

18. Having said so, we must hasten to add that the plenitude of the power under Section 482 CrPC by itself, makes it obligatory for the High Court to exercise the same with utmost care and caution. The width and the nature of the power itself demands that its exercise is sparing and only in cases where the High Court is, for reasons to be recorded, of the clear view that continuance of the prosecution would be nothing but an abuse of the process of law. It is neither necessary nor proper for us to enumerate the situations in which the exercise of power under Section 482 may be justified. All that we need to say is that the exercise of power must be for securing the ends of justice and only in cases where refusal to exercise that power may result in the abuse of the process of law. The High Court may be justified in declining interference if it is called upon to appreciate evidence for it cannot assume the role of an appellate court while dealing with a petition under Section 482 of the Criminal Procedure Code. Subject to the above, the High Court will have to consider the facts

and circumstances of each case to determine whether it is a fit case in which the inherent powers may be invoked.

19. Coming to the case at hand, we are of the view that the incident in question had its genesis in a dispute relating to the access to the two plots which are adjacent to each other. It was not a case of broad daylight robbery for gain. It was a case which has its origin in the civil dispute between the parties, which dispute has, it appears, been resolved by them. That being so, continuance of the prosecution where the complainant is not ready to support the allegations which are now described by her as arising out of some "misunderstanding and misconception" will be a futile exercise that will serve no purpose. It is noteworthy that the two alleged eyewitnesses, who are closely related to the complainant, are also no longer supportive of the prosecution version. The continuance of the proceedings is thus nothing but an empty formality. Section 482 CrPC could, in such circumstances, be justifiably invoked by the High Court to prevent abuse of the process of law and thereby preventing a wasteful exercise by the courts below. "

8. Hon'ble the Supreme Court in the case of **Manohar Singh Vs. State of Madhya Pradesh and Anr.** (2014) 13 SCC 75 has held thus:-

"6. Section 498-A of the IPC is non-compoundable. Section 4 of the Dowry Act is also non-compoundable. It is not necessary to state that non-compoundable offences cannot be compounded by a Court. While considering the request for compounding of offences the Court has to strictly follow the mandate of Section 320 of the Code. It is, therefore, not possible to permit compounding of offences under Section 498-A of the IPC and Section 4

of the Dowry Act. However, if there is a genuine compromise between husband and wife, criminal complaints arising out of matrimonial discord can be quashed, even if the offences alleged therein are non-compoundable, because such offences are personal in nature and do not have repercussions on the society unlike heinous offences like murder, rape etc. (See *Gian Singh v. State of Punjab* [(2012) 10 SCC 303]) . If the High Court forms an opinion that it is necessary to quash the proceedings to prevent abuse of the process of any court or to secure ends of justice, the High Court can do so. The inherent power of the High Court under Section 482 of the Code is not inhibited by Section 320 of the Code. Needless to say that this Court can also follow such a course. ”

9. Coming back to the facts of the case, it is apparent that the criminal proceedings pending against respondents No. 2 & 3 on the complaint of the petitioner is arising of the marital relationship and is family dispute leading to registration of offence under Section 498-A IPC with other compoundable offences. The petitioner and respondents No. 2 & 3 have submitted applications under Section 320 (2), 320 (8) Cr.P.C. Further, the statement of the petitioner as well as respondent No.2 were recorded before the Additional Registrar (Judicial) of this Court wherein they have specifically stated that they have entered into compromise. For the foregoing reasons, law enunciated by Hon'ble Supreme Court in aforementioned rulings, submissions made by learned counsel for the respective parties, statements of the parties recorded on 1.10.2021 by the Additional Registrar (Judicial), the criminal proceedings pending before the Court of Chief Judicial Magistrate, Raipur, District -Raipur (CG) in Criminal Case No.5297 of 2020 is

hereby quashed.

10. The petition is accordingly allowed.

Sd/-
(Parth Prateem Sahu)
Judge

Praveen