

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 518 of 2021

1. Manish Sharma, S/o Ram Niwas Sharma, Aged About 34 Years.
2. Smt. Anusuiya Sharma, W/o Shri Ram Niwas Sharma, Aged About 65 Years.

Both are R/o Magarpara, Near Amar Gas Godown, Bilaspur, Police Station- Civil Line, District- Bilaspur (C.G.)

--- Petitioners

Versus

1. State of Chhattisgarh, Through the Station House Officer, Police Station- Civil Line, District- Bilaspur (C.G.)
2. Smt. Roshni Sharma, W/o Manish Sharma, Aged About 29 Years, R/o Village- Rigriga, Post- Tenganmada, Tahsil- Kota, District- Bilaspur (C.G.) (Complainant)

--- Respondents

For Petitioners	:	Mr. Gaurav Singhal, Advocate.
For State/res. No. 1	:	Mr. Sudeep Verma, Dy. Govt. Advocate.
For Respondent No. 2	:	Mr. Rishabh Singh Samant, Advocate.

Hon'ble Shri Justice Narendra Kumar Vyas

Order on Board

17/09/2021

1. The petitioners have filed this petition under Section 482 of the Cr.P.C. for quashment of entire proceeding in Criminal Case No. 1741/2017 arising out of Crime No. 160/2017 registered at Police Station – Civil Lines, District – Bilaspur (C.G.) pending before learned Judicial Magistrate First Class, Bilaspur, District- Bilaspur (C.G.) (Annexure P/1) against the petitioners for committing offence punishable under Sections 324, 498-A & 34 of I.P.C.
2. Learned counsel for the petitioners submits that during pendency of this petition, the petitioners have filed application under Section 320 (1) of the Cr.P.C. for quashing of the criminal proceeding, but the same has been rejected by learned Judicial

Magistrate First Class, Bilaspur on 10.03.2021 (Annexure P/2) on the count that Section 324 & 498-A are non-compoundable. It has also been informed that the parties have also filed application under Section 13 (B) of the Hindu Marriage Act for grant of decree of divorce before Family Court, Bilaspur and the same has already been granted and now, there is no dispute between them.

3. Learned counsel for respondent No. 2 does not oppose the submission made by learned counsel for the petitioners.
4. Learned counsel for the petitioners placed reliance upon the judgment of the Supreme Court in **K. Srinivas Rao Vs. D.A. Deepa**¹, 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, which is reproduced hereunder:-

“41. While purely a civil matrimonial dispute can be amicably settled by a Family Court either by itself or by directing the parties to explore the possibility of settlement through mediation, a complaint under Section 498-A of the IPC presents difficulty because the said offence is not compoundable except in the State of Andhra Pradesh where by a State amendment, it has been made compoundable. Though in *Ramgopal & Anr. v. State of Madhya Pradesh & Anr.* (2010) 13 SCC 540, this Court requested the Law Commission and the Government of India to examine whether offence punishable under Section 498-A of the IPC could be made compoundable, it has not been made compoundable as yet. The courts direct parties to approach mediation centres where offences are compoundable. Offence punishable under Section 498-A being a non-compoundable offence, such a course is not followed in respect thereof.

42. This Court has always adopted a positive approach and encouraged settlement of matrimonial disputes and discouraged their escalation. In this connection, we must refer to the relevant paragraph from *G.V. Rao vs. L.H.V. Prasad & Ors.* (2000) 3 SCC 693, where the complaint appeared to be the result of matrimonial dispute, while refusing to

¹ (2013) 5 SCC 226

interfere with the High Court's order quashing the complaint, this court made very pertinent observations, which read thus:

“12. 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.”

43. In *B.S. Joshi v. State of Haryana (2003) 4 SCC 675*, after referring to the above observations, this Court stated that the said observations are required to be kept in view by courts while dealing with matrimonial disputes and held that complaint involving offence under Section 498-A of the IPC can be quashed by the High Court in exercise of its powers under Section 482 of the Code if the parties settle their dispute. Even in *Gian Singh v. State of Punjab (2012) 10 SCC 303*, this Court expressed that certain offences which overwhelmingly and predominantly bear civil flavour like those arising out of matrimony, particularly relating to dowry, etc. or the family dispute and where the offender and the victim had settled all disputes between them amicably, irrespective of the fact that such offences have not been made compoundable, the High Court may quash the criminal proceedings if it feels that by not quashing the same, the ends of justice shall be defeated.

44. We, therefore, feel that though offence punishable under Section 498-A of the IPC is not compoundable, in appropriate cases if the parties are willing and if it appears to the criminal court that there exist elements of settlement, it should direct the parties to explore the possibility of settlement

through mediation. This is, obviously, not to dilute the rigour, efficacy and purport of Section 498-A of the IPC, but to locate cases where the matrimonial dispute can be nipped in bud in an equitable manner. The judges, with their expertise, must ensure that this exercise does not lead to the erring spouse using mediation process to get out of clutches of the law. During mediation, the parties can either decide to part company on mutually agreed terms or they may decide to patch up and stay together. In either case for the settlement to come through, the complaint will have to be quashed. In that event, they can approach the High Court and get the complaint quashed. If however they chose not to settle, they can proceed with the complaint. In this exercise, there is no loss to anyone. If there is settlement, the parties will be saved from the trials and tribulations of a criminal case and that will reduce the burden on the courts which will be in the larger public interest. Obviously, the High Court will quash the complaint only if after considering all circumstances it finds the settlement to be equitable and genuine. Such a course, in our opinion, will be beneficial to those who genuinely want to accord a quietus to their matrimonial disputes. We would, however, like to clarify that reduction of burden of cases on the courts will, however, be merely an incidental benefit and not the reason for sending the parties for mediation. We recognize 'mediation' as an effective method of alternative dispute resolution in matrimonial matters and that is the reason why we want the parties to explore the possibility of settlement through mediation in matrimonial disputes.

45. We would, however, like to clarify that reduction of burden of cases on the courts will, however, be merely an incidental benefit and not the reason for sending the parties for mediation. We recognise "mediation" as an effective method of alternative dispute resolution in matrimonial matters and that is the reason why we want the parties to explore the possibility of settlement through mediation in matrimonial disputes."

5. Hon'ble the Supreme Court in case of **State of Madhya Pradesh Vs. Laxmi Narayan & others**², 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

² (2019) 5 SCC 688

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 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. This Court vide order dated 19.08.2021 directed the petitioners & respondent No. 2 to record their statement before Additional Registrar (Judicial) of this Court on 13.09.2021 and in pursuance of this Court's order, Petitioner No. 1- Manish Sharma & respondent No. 2- Smt. Roshni Sharma, recorded their statements, in which, they have unequivocally submitted that their dispute is settled and now there is no dispute between them and they do not want to prosecute the proceeding further.
7. In view of the said legal position, considering the facts and circumstances of the case as also the fact that the parties have amicably settled their dispute 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 petitioners. Since petitioner No. 1 & respondent No. 2 are husband and wife and looking to this aspect of the matter, the offence punishable under Section 324 & 498-A of I.P.C. are now quashed while exercising the power under Section 482 of the Cr.P.C. as continuation of the criminal proceeding will be nothing, but an abuse of process of law.

8. Accordingly, Criminal Case No. 1741/2017 pending before the learned Judicial Magistrate First Class, Bilaspur, District- Bilaspur (C.G.) as well as Crime No. 160/2017 registered at Police Station – Civil Lines, District – Bilaspur (C.G.) against the petitioners for committing offence punishable under Sections, 324, 498-A & 34 of I.P.C., deserve to be and are hereby quashed in the interest of justice.
9. In view of the above, the present petition is allowed to the extent indicated hereinabove.
10. Copy of this order be sent to the concerned Judicial Magistrate for closure of the case.

Sd/-
(Narendra Kumar Vyas)
Judge