

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPCR No. 310 of 2021

1. Arshad Khan S/o Moh. Haji Abdul Wahab, Aged About 32 Years R/o. F.C.I. Road, Vyapar Vihar, Tarbahar, Bilaspur, District Bilaspur Chhattisgarh., District : Bilaspur, Chhattisgarh
2. Shabana Khan W/o Moh. Haji Abdul Wahab, Aged About 50 Years R/o. F.C.I. Road, Vyapar Vihar, Tarbahar, Bilaspur, District Bilaspur Chhattisgarh., District : Bilaspur, Chhattisgarh
3. Irshad Khan S/o Moh. Haji Abdul Wahab, Aged About 25 Years R/o. F.C.I. Road, Vyapar Vihar, Tarbahar, Bilaspur, District Bilaspur Chhattisgarh., District : Bilaspur, Chhattisgarh

---- Petitioners

Versus

1. State Of Chhattisgarh Through Home Department, Nawa Raipur, District Raipur Chhattisgarh,
2. Superintendent Of Police, Sarguja, District Sarguja Chhattisgarh,
3. Station House Officer, P.S. Mahila Thana, Ambikapur, District Sarguja Chhattisgarh,
4. Smt. Rumana Khan W/o Moh. Arshad Khan, R/o Mominpura, Ambikapur, District Sarguja Chhattisgarh, District : Surguja (Ambikapur), Chhattisgarh

---- Respondents

For Petitioners	: Shri Rahul Agrawal, Advocate
For State	: Shri Gurudev I Sharan, Govt. Advocate
For respondent No.4.	: Shri Sumeet Shrivastava, Advocate

Hon'ble Shri Justice Narendra Kumar Vyas

Order on Board

2-9-2021

1. The petitioners have filed the present petition under Section 482 of the Cr.P.C., seeking quashment of FIR No. 06 of 2021 registered against the petitioners at Mahila Thana, Ambikapur, District Sarguja for the alleged offence punishable under Sections 294, 313, 323, 498-A of the IPC on account of amicable settlement arrived at between the parties.
2. The case of the prosecution, in brief, is that the petitioners are residents of Tarbahar, Bilaspur (CG) where they are running

transportation business named and style as “New Raipur Road ways:. The petitioner No.1 is the husband of respondent No.4, petitioner No.2 is the mother-in -law of respondent No.4 and petitioner No.3 is the brother-in-law of respondent No.4 whereas respondent No.4 (complainant) is a resident of Ambikapur, District Sarguja where she is residing with hew family. Nikah was solemnized between the petitioner No.1 and respondent No. 4 on 23-10-2016 as per Muslim rituals and customs. Thereafter the petitioners started harassing her for demand of dowry which lead respondent No. 4 to FIR against the petitioners before Mahila Thana, Ambikapur, District Sarguja for the offence punishable under Sections 294, 313m 323 and 498-A 498A of the IPC.

3. Learned counsel for the petitioners would submit that they have filed the present petition for quashing of the FIR No. 06 of 2021 on the strength of settlement arrived between the petitioners during pendency of the writ petition (cr) and respondent No. 4 and now they don't want to continue with the criminal case.
4. This Court vide its order dated 22.07.2021 and 13-8-2021 has directed the petitioners and respondent No. 4 to appear before the Additional Registrar (Judicial) of this Court for recording of their statements on 5-8.2021 and 26-8-2021. In pursuance of the direction of this Court, the petitioners and respondent No. 4 entered their appearance and stated in unequivocal terms that now there is no dispute between them, respondent No. 4 is not willing to continue with the criminal proceedings and prayed for quashment of the FIR No. 06 of 2021. 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

1 (2019) 5 SCC 688

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 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 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 opinion to quash the FIR registered against the petitioners. Further, this court is of the opinion that the continuation of criminal proceeding will be nothing, but to an abuse of process of law. Accordingly, FIR bearing registration No. 06 of 2021 registered against the petitioners at Mahila Police Station, Ambikapur, District Sarguja (C.G.) for commission of offence punishable under Sections 294, 313, 323 & 498-A of I.P.C., deserves to be and is hereby quashed.

² (2013) 5 SCC 226

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 Police Station for closure of the FIR.

Sd/-

(Narendra Kumar Vyas)

Judge

Raju