

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 461 of 2021

- Smt. Abhiti Tiwari W/o Alok Dubey D/o Dr. Ashok Tiwari Aged About 29 Years R/o House No. 9/38, Civil Lines, K. K. Ward, Bhatapara, District Balodabazar- Bhatapara Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Station House Officer, Police Station Sakri, District Bilaspur Chhattisgarh
2. Babulal Dubey S/o Late Rajaram Dubey Aged About 61 Years R/o A/ D 203-A, Phase- 3 Asma City, Police Station Sakri, District Bilaspur Chhattisgarh
3. Smt. Aruna Dubey W/o Babulal Dubey Aged About 56 Years R/o A/ D 203-A, Phase- 3 Asma City, Police Station Sakri, District Bilaspur Chhattisgarh
4. Alok Dubey S/o Babulal Dubey Aged About 32 Years R/o A/ D 203-A, Phase- 3 Asma City, Police Station Sakri, District Bilaspur Chhattisgarh

---- Respondents

For Petitioner : Shri Ashutosh Pandey, Advocate

For State : Shri Gurudev I. Sharan, Government Advocate

For Respondent No.2: Shri Vivek Sharma, Advocate

Hon'ble Shri Justice Narendra Kumar Vyas

Order on Board

28.06.2021

1. The petitioner has filed the present petition under Section 482 of the Cr.P.C. seeking quashment of the entire proceedings in Criminal Case No. 1060/2018 pending before the learned Judicial Magistrate First Class, Bilha, District-Bilaspur arising out of FIR No. 93/2018 registered at Police Station Sakri, District – Bilaspur for the offence punishable under Section 498A/34 of the IPC on account of amicable settlement arrived at between the parties.
2. The facts projected by the petitioner is that respondents No. 2 and 3 are father-in-law and mother-in-law of the petitioner respectively and respondent No. 4 is the husband of the

petitioner. Her marriage with respondent No. 4 was solemnised on 08.03.2018 according to Hindu Rites and Rituals. Thereafter, some matrimonial dispute took place and she started living with her parents. She filed written complaint before the police station Sakri against respondents No. 2 to 4, upon which, FIR No. 93/2018 was registered for the offence under Section 498-A, 34 IPC. After investigation, the police submitted charge-sheet before the Judicial Magistrate First Class, Bilha and they were being prosecuted in criminal case No. 1060/2018.

3. During the pendency of the criminal case the dispute between the petitioner and respondents No. 2 to 4 got settled. They jointly filed application under Sections 320 and 320(2) of Cr.P.C. for compounding of the offence before the trial Court. The trial Court rejected the same on 26.03.2021, therefore, the petitioner filed this Cr.M.P. for quashment of criminal proceedings against respondents No. 2 to 4.
4. This Court issued notice to respondents No. 2 to 4, thereafter, this Court vide order dated 17.06.2021 directed the petitioner and respondent No. 4 to appear before the Additional Registrar (Judicial) of this Court for recording of their statements on 21.06.2021. In pursuant to the direction of this Court, the petitioner and respondent No. 4 entered their appearance on 21.06.2021 and stated in unequivocal terms that now there is no dispute between them, petitioner/complainant is not willing to continue with the criminal proceedings and prayed for quashment of FIR No. 93/2018 as well as Criminal Case No. 1060/2018. She has stated that she has voluntarily deposed and it has been executed without fear, pressure or undue influence from the respondents.
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-

¹ (2019) 5 SCC 688

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 not 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 criminal proceedings initiated against the respondents No. 2 to 4. Further, this court is of the opinion that the continuation of criminal proceedings will be nothing, but to an abuse of process of law. Accordingly, Criminal Case No. 1060/2018 pending before the learned Judicial Magistrate First Class, Bilha District – Bilaspur as well as FIR bearing registration No. 93/2018 registered against the respondents No. 2 to 4 at Police Station- Sakri, District- Bilaspur (C.G.) for committing offence punishable under Section 498-A/34 of I.P.C. deserve to be and are 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 Judicial Magistrate for necessary compliance and closure of the proceedings.

**Sd-
(Narendra Kumar Vyas)
Judge**

kishore