

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 566 of 2021

1. Kishan Prashad Komane S/o Shatruhan Aged About 26 Years Residents Are Shanti Nagar, Sakari P.S. Chakarbhata, District Bilaspur (Chhattisgarh),
2. Shatruhan Komane S/o Bhagirathi Aged About 54 Years Residents Are Shanti Nagar, Sakari P.S. Chakarbhata, District Bilaspur (Chhattisgarh),
3. Smt Neera Komane W/o Shatruhan Aged About 44 Years Residents Are Shanti Nagar, Sakari P.S. Chakarbhata, District Bilaspur (Chhattisgarh),
4. Roshni Komane D/o Shatruhan Aged About 22 Years Residents Are Shanti Nagar, Sakari P.S. Chakarbhata, District Bilaspur (Chhattisgarh),
5. Kiran Komane D/o Shatruhan Aged About 24 Years Residents Are Shanti Nagar, Sakari P.S. Chakarbhata, District Bilaspur (Chhattisgarh).

---- Petitioners

Versus

1. State of Chhattisgarh Through- In Charge Of P.S. Chakarbhata, District Bilaspur (Chhattisgarh), District : Bilaspur, Chhattisgarh
2. Smt. Ranjeeta Komane W/o Kishan Prashad Komane Aged About 27 Years R/o Shanti Nagar, Sakari, P.S. Chakarbhata, District Bilaspur (Chhattisgarh).

---- Respondent

For Petitioners	: Shri Badruddin Khan, Advocate
For State	: Shri Rakesh Sahu, Panel Lawyer
For Respondent No.2	: None appears though served

Hon'ble Shri Justice Narendra Kumar Vyas

Order on Board

23.08.2021

1. The petitioners have filed the present petition under Section 482 of the Cr.P.C. has been filed seeking quashment of the entire proceedings in Criminal Case No. 930 of 2016 pending before the learned Judicial Magistrate First Class, Bilha, District Bilaspur arising out of FIR registered at Police Station Chakarbhata, District Bilaspur for the offence punishable under

Section 498-A, 323, 506 Part II, 34 of the IPC .

2. The case of the prosecution, in brief, is that the marriage was solemnised between the petitioner No.1 and respondent No. 2 under the Hindu customary rites and rituals. Petitioner 2 is father-in-law, petitioner No.3 is mother-in-law and petitioners No. 4 and 5 are sister-in-laws of respondent No.2. Respondent No.2 lodged report against the petitioners before police station Chakarbhata, District Bilaspur alleging that they are treating her with cruelty and demanding dowry, pursuant to which FIR has been registered against the petitioners for the offence punishable under Section 498A, 323, 506 Part II, 34 of IPC and they were charge sheeted before the jurisdictional Criminal court.
3. Learned counsel for the petitioners would submit that they have filed the present Cr.M.P. for quashing of the entire proceedings in Criminal Case No. 930 of 2016. He further submits that he has filed this Cr.M.P. for quashment of criminal proceedings on the strength of settlement arrived at between the petitioners and respondent No. 2 and now they don't want to continue with the criminal case.
4. This Court vide its order dated 9-8.2021 has directed the petitioners and respondent No. 2 to appear before the Additional Registrar (Judicial) of this Court for recording of their statements on 13-08.2021. In pursuance of the direction of this Court, the petitioners and respondent No. 2 entered their appearance and stated in unequivocal terms that now there is no dispute between them, respondent No. 2 is not willing to continue with the criminal proceedings and prayed for quashment of the Criminal Case No. 930 of 2016. 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:-

¹ (2019) 5 SCC 688

“15.1 That the power conferred under Section 482 of the Code to quash the criminal proceedings 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 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 proceeding initiated 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, Criminal Case No. 930 of 2016 pending before the learned Judicial Magistrate First Class, Bilha, District Bilaspur arising out of FIR registered against the petitioners at Police Station- Chakarbhatta, District Bilaspur (C.G.) for committing offence punishable under Section 498-A, e323, 506 Part II, 34 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 Judicial Magistrate for necessary compliance and closure of the proceedings.

Sd/-
(Narendra Kumar Vyas)
Judge

Raju