

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Cr.M.P. No. 662 of 2021

1. Hemant Bhatiya S/o Manohar Lal Bhatiya, aged 36 years (Husband).
2. Ritesh Bhatiya, s/o Manohar Lal Bhatiya, aged 40 years. (Brother-in-law)
3. Manohar Lal Bhatiya, S/o Meghraj Bhatiya aged 65 years. (Father-in-law)
4. Renu Bhatiya W/o Manohar Lal Bhatiya, aged about 60 years. (Mother-in-law)

All are R/o D 407 Sector 5, Tagore Nagar, Raipur Tehsil & Dist. Raipur (C.G.).

---- Petitioners

Versus

1. State of Chhattisgarh, Through Police Station City Kotwali Raipur, Distt.- Raipur (C.G.).
2. Shalini Bhatiya, W/o Hemant Bhatiya, aged about 31 years, R/o S-4, Priyadharshani Nagar, District- Raipur (C.G.). (**Complainant**)

---- Respondents

For Petitioners : Mr. Sanjay Agrawal, Advocate
For Respondent No. 1 : Mr. Gurudev I. Sharan, Government Advocate.
For Respondent No. 2 : Mr. Varun Sharma, Advocate

Hon'ble Shri Justice Narendra Kumar Vyas

Order on Board

22.07.2021

1. The present petition under Section 482 of the Cr.P.C. has been filed seeking quashment of the entire proceedings in Criminal Case No. 3849/2020 [**State of Chhattisgarh v. Hemant Bhatia & other**] pending before the learned Judicial Magistrate, First Class, Raipur District- Raipur arising out of FIR No. 0356/2019 registered at Police Station – Raipur Kotwali, District – Raipur for the offence punishable under Sections 323 & 498A of the IPC on account of amicable settlement arrived at between the parties.
2. Learned counsel for the petitioners would submit that petitioners

have filed the instant petition challenging the order dated 10.02.2021 passed by learned Judicial Magistrate, First Class, Raipur by which the application filed under Section 320 of the Cr.P.C., so far as registration of offence under Section 498-A IPC against the applicants, has been rejected. He further submits that petitioner No. 1 and respondent No. 2/complainant are the husband and wife, respectively and during pendency of the complaint case before Judicial Magistrate First Class, Raipur they have amicably settled their dispute outside the court.

3. Learned counsel for the petitioner would submit that he has filed the present Cr.M.P. for quashing of the entire proceedings arising out of FIR No.0356/2019 as well as proceedings under Criminal Case No. 3849/2020 [***State of Chhattisgarh v. Hemant Bhatia & other***] pending before the learned Judicial Magistrate, First Class, Raipur. He further submits that he has filed this Cr.M.P. for quashment of the charge-sheet and FIR on the strength of settlement arrived at between the petitioner No. 1/husband and respondent No. 2/wife and now they do not want to continue with the criminal case.
4. This Court vide its order dated 12.7.2021 has directed the petitioners and respondent No. 2 to appear before the Additional Registrar (Judicial) of this Court for recording their statements on **16th July, 2021**. In pursuant to the direction of this Court, the petitioners and respondent No. 2/complainant 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 FIR No. 0356/2019 as well as Criminal Case No. 3849/2020 [***State of Chhattisgarh v. Hemant Bhatia & other***]. 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

¹ (2019) 5 SCC 688

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-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 the 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 petitioner. 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. 3849/2020 [***State of Chhattisgarh v. Hemant Bhatia & other***] pending before the learned Judicial Magistrate, First Class, Raipur as well as FIR bearing registration No. 0356/2019

² (2013) 5 SCC 226

registered at Police Station – Raipur Kotwali, District – Raipur for committing offence punishable under Section 498-A of I.P.C., deserve to be and are hereby quashed in the interest of justice.

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

Amita