

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 785 of 2021

1. Subodh Bagrecha, S/o Shri I.C. Bagrecha, Aged About 55 Years.
2. Jyoti Bagrecha, W/o Subodh Bagrecha, Aged About 48 Years.
3. Dr. Siddharth Bagrecha, S/o Subodh Bagrecha, Aged About 28 Years.
4. Aishwarya Bagrecha, D/o Subodh Bagrecha, Aged About 22 Years.

All R/o House No. 48, Indrawati Colony, Raja Talab, P.S. Civil Lines, Raipur, District (Revenue & Civil), Raipur (C.G.)

(Age of petitioners No. 3 & 4 wrongly mentioned in the FIR)

--- Petitioners

Versus

1. State of Chhattisgarh, Through District Magistrate, Raipur, District- (Revenue & Civil) Raipur (C.G.)
2. Smt. Yukti Bagrecha, D/o Late Shri Vijay Rampuriya, Aged About 26 Years, R/o Flat No. 402, Kundan Palace, Dhebar Arcade, Bairon Bazar, Raipur, District- Raipur (C.G.)

--- Respondents

For Petitioners	:	Mr. Yogesh Chandra Pandey, Advocate.
For State/res. No. 1	:	Mr. Rakesh Sahu, Dy. Govt. Advocate.
For Respondent No. 2	:	Mr. Vivek Chopra, Advocate.

Hon'ble Shri Justice Narendra Kumar Vyas

Order on Board

06/09/2021

1. The petitioners have filed this petition under Section 482 of the Cr.P.C. for quashment of entire proceeding in Criminal Case No. 5576/2020 (State of Chhattisgarh Vs. Dr. Siddharth Bagrecha & others) pending before learned Judicial Magistrate First Class, Raipur (C.G.) arising out of Crime No. 58/2020 registered on 19.10.2020 (Annexure P/1) against the petitioners at Police Station- Mahila Thana, Raipur (C.G.) for committing offence punishable under Sections 498-A, 506, 34 of I.P.C.

2. The police after investigation has submitted final report before the learned Judicial Magistrate First Class, Raipur. During pendency of the criminal case, the petitioners and respondent No. 2 have settled their grievance and an agreement (memorandum of understanding) has been executed between them on 24.10.2020 (Annexure P/2). The relevant terms of the agreement is extracted below:-

“ 7. यह की पक्षकारगणों के इस समझौते में आने के पश्चात् दोनों पक्षकार आपसी सहमति से विवाह विच्छेद हेतु धारा 13 ब, हिन्दू विवाह अधिनियम, 1995 के तहत, माननीय प्रधान न्यायाधीश, कुटुंब न्यायालय, रायपुर (छ.ग.) के समक्ष 27/10/2020 को प्रस्तुत करेंगे ।

8. यह की विवाह के समय प्रथम पक्ष द्वारा जेवर गहने इत्यादि समान (अनुसूची क्रमांक-1 में उल्लेखित) प्रथम पक्षकार की श्रीमती युक्ति बागरेचा को स्त्रीधन के रूप में दिया गया था जिसे द्वितीय पक्ष, समझौते की पहली किस्त के रूप में 24/10/2020 को मध्यस्थों के समक्ष प्रदान करेंगे तथा शादी के समय दी गई राशि 11 लाख मात्र भी वापस करेंगे एवं अतिरिक्त 2 लाख नकद वर्तमान में प्रस्तुत प्रकरण के निराकरण के लिए मध्यस्थों के समक्ष जमा करेंगे ।

9. यह की उपरोक्त प्रथम किस्त द्वितीय पक्ष द्वारा इस समझौतानामा में दस्तखत करने के बाद मध्यस्थों को सौंपी जाएगी तथा प्रथम पक्ष द्वारा उपरोक्त एफ.आई.आर. क्रमांक 0058/2020 को खत्म करने हेतु उचित आवेदन पुलिस एवं संबंधित विभाग में प्रस्तुत करेंगे, जरूरत पड़ने पर दोनों पक्ष माननीय उच्च न्यायालय के समक्ष एफ.आई.आर. क्रमांक 0058/2020 खारिज करने हेतु प्रतिबद्ध होंगे । यदि उपरोक्त प्रकरण में द्वितीय पक्ष को अग्रिम जमानत जरूरी होने पर प्रथम पक्ष पूर्ण सहयोग करेंगे तथा उपरोक्त एफ.आई.आर. क्रमांक 0058/2020 को खत्म करने हेतु आवश्यक कार्यवाही करने पर द्वितीय पक्ष द्वारा प्रदान किये गए नगद राशि एवं स्त्रीधन व अन्य सामान मध्यस्थों के माध्यम से प्रथम पक्ष को सौंपी जाएगी और द्वितीय किस्त मध्यस्थों के समक्ष जमा कराई जाएगी ।

10. यह की राजीनामा व भरणपोषण की द्वितीय किश्त की अदायगी मध्यस्थों के द्वारा श्रीमती युक्ति बागरेचा एवं श्री सिद्धार्थ बागरेचा के मध्य आपसी विवाह विच्छेद हेतु आवेदन हिन्दू विवाह अधिनियम की धारा 13 ब के तहत संयुक्त रूप से विवाह विघटन हेतु प्रस्तुत कर प्राथमिक बयान दर्ज करेंगे, उक्त विवाह विघटन के प्रकरण पंजीयन दिवस को राजीनामा व भरणपोषण की द्वितीय किश्त के 12.5 लाख (साढ़े बारह लाख रूपए) मध्यस्थों के माध्यम से श्रीमती युक्ति बागरेचा को प्रदान किया जाएगा तथा विवाह विघटन की डिक्री प्राप्त करने के दिवस पे राजीनामा व भरणपोषण की तीसरी व अंतिम किश्त के रूप में 12.5 लाख (साढ़े बारह लाख रूपए) प्रथम पक्ष की श्रीमती युक्ति बागरेचा को मध्यस्थों श्री शांतिलाल जी बरडिया के सहमति के साथ श्री जगदीश झाँवर जी प्रदान करेंगे। उपरोक्त किस्त के अदायगी के साथ उसकी प्राप्ति की अभिस्वीकृति प्रथम पक्ष के संयुक्त हस्ताक्षर के साथ उस दिवस ही मध्यस्थगण द्वितीय पक्ष को प्रदान करेंगे।

उक्तानुसार सम्पूर्ण खर्च, समान के साथ ही राजीनामा राशि, भरणपोषण राशि, विवाह के खर्च, उपहार आदि के रूप में युक्ति को 38 लाख प्राप्त होंगे और इसके अतिरिक्त और कोई लेनदेन बाकी नहीं होगा।”

3. Learned counsel for respondent No. 2 would submit that in view of memorandum of understanding arrived at between the parties, the learned First Additional Principal Judge, Family Court, Raipur has passed decree of divorce on 26.08.2021.
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

¹ (2013) 5 SCC 226

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 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 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 10.08.2021 directed the petitioners & respondent No. 2 to record their statement before Additional Registrar (Judicial) of this Court on 31.08.2021 and in pursuance of this Court's order, Petitioner No. 1- Subodh Bagrecha, Petitioner No. 2- Jyoti Bagrecha, Petitioner No. 3- Dr. Siddharth Bagrecha, Petitioner No. 4- Aishwarya Bagrecha & respondent

² (2019) 5 SCC 688

No. 2- Smt. Yukti Bagrecha, 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. Further, this Court is of the opinion that continuation of the criminal proceeding will be nothing, but an abuse of process of law. Accordingly, Criminal Case No. 5576/2020 pending before the learned Judicial Magistrate First Class, Raipur, District- Raipur (C.G.) as well as Crime No. 58/2020 registered at Police Station – Mahila Thana, District – Raipur against the petitioners for committing offence punishable under Sections 498-A, 506 & 34 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 to the extent indicated hereinabove.
9. Copy of this order be sent to the concerned Judicial Magistrate for closure of the case.

Sd/-
(Narendra Kumar Vyas)
Judge