

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Proceedings through Video Conferencing****CR.R. No. 610 of 2018**

1. Sanjay Singh Chandel, son of Shyam Sunder Singh, aged about 40 years
 2. Smt. Sunaina Singh, wife of Shyam Sunder Singh, aged about 62 years,
- Appellants No. 1 and 2 R/o. Govt. Hospital
Compound, Sitapur, Distt. Ambikapur, Sarguja (CG)

---- Applicants**Versus**

State of Chhattisgarh through S.H.O., P.S. Champa, Distt.
Janjgir Champa (CG)

----Non-applicant

 For applicants : Mr.Ravindra Sharma, Adv.
 For non-applicant : Mr. Wasim Miyan, Penal Lawyer.
 For complainant : Mr. Umakant Singh Chandel, Adv.

Hon'ble Shri Justice N.K. Chandravanshi**Order on Board****17-8-2021**

1. With consent of the parties, heard the matter finally along with I.A. No. 1/2020, application for compounding the offence and quashing of criminal proceedings on the basis of compromise under Section 320(2)/482 of the Criminal Procedure Code, 1973 (in short 'Cr.P.C.').
2. As per order dated 22-3-2021 of this Court, the applicants and complainant (P.W. 1 Smt. Kavita Singh alias Ranjita Singh), have recorded their statements before the Additional Registrar (Judl.).
3. Brief facts, necessary for proper adjudication of this criminal revision, are that vide judgment dated 22-1-2018, the Judicial Magistrate First Class, Champa, Distt. Janjgir Champa in CNR No. CGJC040000012009/ Criminal case No. 519/2009, convicted applicants along with other accused persons namely Shyamsunder Singh Chandel and Smt. Poonam Singh, for the offence under Section 498-A/34 of the Indian Penal Code, 1860 (in short 'the

I.P.C.') and sentenced each of them to undergo RI for 3 years, and to pay fine of Rs. 2,000/-, in default of payment of fine, to further undergo SI for one month. Against said judgment, present applicants and other convicted co-accused persons filed Criminal Appeal No. 8/2018. Learned Sessions Judge, Janjgir Champa, vide judgment dated 7-6-2018, acquitted the accused Shyamsundar Singh Chandel and Smt. Poonam Singh of the charge under Section 498-A/34 of the I.P.C. by allowing their appeal. The appeal relating to present applicants was partly allowed, the conviction under Section 498-A of the I.P.C. was affirmed, however, the sentence was modified, jail sentence was reduced from 3 years to 1 year and fine sentence was enhanced from Rs. 2,000/- to Rs. 10,000/-. Hence, the applicants filed the instant criminal revision.

4. During the pendency of this revision, present applicants and complainant/victim Smt. Kavita Singh alias Ranjita Singh through their respective counsel filed joint application under Section 320(2)/482 of the Cr.P.C. along with affidavits of both the applicants and the complainant, and photocopy of Ikrarnama (Samjhotanama) executed between applicant No. 1 and complainant Smt. Kavita Singh alias Ranjita Singh, praying for grant of permission to compounding the offence and quashing of criminal proceedings, as they have settled their dispute amicably, with a further prayer to set aside the judgment of conviction and order of sentence passed by both the courts below and acquit the applicants.

5. The applicants and complainant Smt. Kavita Singh alias Ranjita Singh recorded their statements on oath before the Additional Registrar (Judicial) of this Court to support the averments made in I.A. No. 1/2020, wherein they have stated that the applicant No. 1 and complainant are husband and wife and applicant No. 2 Smt. Sunaina Singh is mother of applicant No. 1. On a report made by the complainant/wife, crime No. 308/2009 under Section 498-A/34 of the I.P.C. was registered. After investigation, charge sheet was filed. After conclusion of the trial, learned Judicial Magistrate First Class, Champa, Distt. Janjgir Champa, convicted the applicants and other co-accused persons, and on the appeal

preferred by them, learned Sessions Judge, Janjgir Champa modified the judgment passed by the Judicial Magistrate First Class, Champa, as aforementioned.

6. Complainant Smt. Kavita Singh alias Ranjita Singh, in her statement recorded in support of the application, has stated that she has amicably settled her dispute with the applicants with her freewill and also without any fear and pressure. She has also stated that now she does not want any proceeding against the applicants in respect of aforesaid case. Applicants have also supported her statement.

7. Learned counsel for the applicants submits that though this is a criminal revision filed under Section 397/401 of the Cr.P.C., but inherent jurisdiction of the Court can very well be invoked in any of the relevant criminal proceeding under the authority of Section 482 of the Cr.P.C. Though, Section 498-A of the I.P.C. is a non-compoundable offence but looking to the pronouncements of Hon'ble Apex Court and this High Court, the proceedings may be quashed. He further submits that provisions of Section 320 of the Cr.P.C. do not limit or affect the powers under Section 482 of the Cr.P.C. He places reliance on a decision of the Apex Court in **B.S. Joshi and others -v- State of Haryana and another** [(2003) 4 SCC 675], wherein it is held in para 14 and 15 as under :-

“14. There is no doubt that the object of introducing Chapter XX-A containing Section 498-A in the Penal Code, 1860 was to prevent torture to a woman by her husband or by relatives of her husband. Section 498-A was added with a view to punishing a husband and his relatives who harass or torture the wife to coerce her or her relatives to satisfy unlawful demands of dowry. The hypertechnical view would be counterproductive and would act against interests of women and against the object for which this provision was added. There is every likelihood that non-exercise of inherent power to quash the proceedings to meet the ends of justice would prevent women from settling earlier. That is not the object of Chapter XXA of the Penal Code, 1860.

15. In view of the above discussion, we hold that the High Court in exercise of its inherent powers can quash criminal proceedings or FIR or complaint and Section 320 of the Code does not limit or affect the powers under Section 482 of the Code.”

8. Learned counsel for the applicants further submits that a coordinate bench of this Court in **Cr.M.P. No. 192 of 2009** (Karam Singh and Ors. -v- State of Chhattisgarh and another) vide order dated 22-4-2009, and another coordinate bench in **Shiv Kumar -v- State of CG** (2016(3) CGLJ 485, held that the above cited decision of Hon'ble Apex Court is applicable and it is the duty of the court to encourage genuine settlement of matrimonial disputes and the provisions of Section 320 of the Cr.P.C. do not limit or affect the powers under Section 482 of the Cr.P.C., and thereby allowed the petition filed under Section 482 of the Cr.P.C. in the interest of justice and quashed the criminal proceedings pending before the trial Court. He further submits that in the present case also, Section 498-A of the I.P.C. is non-compoundable as per provisions of Section 320 of the Cr.P.C., the parties entered into a compromise voluntarily, without any fear or pressure, the case laws cited above are applicable in the present matter. Hence, it is prayed that present revision petition may be allowed by invoking inherent jurisdiction of this Court and with the amicable settlement/compromise as aforementioned, the present revision may be allowed, and the conviction under Section 498-A of the I.P.C. awarded by the trial Court, affirmed by the appellate Court, be quashed and on the basis of settlement/compromise between the parties, the present applicants may be acquitted of the offence.

9. Learned counsel for the respondent/State submits that if both the parties have settled their dispute amicably, then he has no objection in allowing the application and the instant criminal revision.

10. Learned counsel for the complainant/ wife Smt. Kavita Singh alias Ranjita Singh, duly supports the arguments and submits that as per compromise/settlement, both have settled the matter

amicably without fear or favour, same may be accepted and the applicants may be acquitted of the charge.

11. Perused the instant criminal revision, annexed documents, cited case laws, heard learned counsel for the parties and considered them.

12. A perusal of record along with records of Courts below shows that the applicants have been convicted for offence under Section 498-A/34 of the I.P.C. Judgment of conviction passed by the JMFC, Champa has been affirmed by the appellate Court. During pendency of this revision, the applicants and complainant Smt. Kavita Singh alias Ranjita Singh filed the application to permit them to compromise the matter, both of them on their statements on oath supported the contents of the application for compromise and stated that they have entered into compromise voluntarily without any pressure or fear. Complainant Smt. Kavita Singh alias Ranjita Singh has also stated that in support of compromise arrived at between the parties, she does not want any proceedings in respect of aforesaid case. On due consideration, looking to the entire facts placed before this Court and also in the light of above cited judgments of Hon'ble Apex Court as well as coordinate bench of this Court, this Court is of the view that since powers under Section 320 of the Cr.P.C. do not limit or affect the powers under Section 482 of the Cr.P.C., since both the parties have entered into compromise and looking to the very nature of the dispute in a matrimonial matter, it would be appropriate to allow instant criminal revision and quash the judgment of conviction and order of sentence passed by the concerned Court, modified by the concerned appellate Court, by invoking inherent jurisdiction of this Court.

13. Consequently, instant criminal revision as well as interim application are hereby allowed and disposed of. Amicable settlement and compromise between the parties are accepted and in the light of said compromise, by invoking inherent jurisdiction of this Court, the applicants are acquitted from offence under Section 498-A/34 of the I.P.C. as they were held convicted by the trial Court and the same was affirmed by the appellate Court. Instant acquittal

is given effect to under the relevant provisions of Section 320(8) of the Cr.P.C.

14. Applicants are on bail. They be set at liberty forthwith. Their bail bonds shall continue for a further period of six months in view of provisions of Section 437-A of the Cr.P.C. Fine, if deposited, shall be refundable to the applicants without any delay.

15. The applicants may file copy of this order before the Court below for compliance and information.

16. Registrar (Judicial) is also directed to send copy of the order to the JMFC, Champa, Distt. Janjgir Champa for compliance and information.

17. The Criminal revision is accordingly allowed.

Sd/-

N.K. Chandravanshi
Judge

Pathak/-