

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 757 of 2021

1. Kailash Chandra Prajapati, S/o Pukh Raj Prajapati, Aged About 59 Years (Surname Of Petitioner No.1 Wrongly Mentioned As Parajapat In The F.I.R.) R/o. 48, Rav Colony Masuriya, Jodhpur, District Jodhpur Rajasthan (Address Of The Petitioners Has Been Wrongly Mentioned In The F.I.R.), District : Jodhpur, Rajasthan
2. Neelu Prajapat, W/o Kailash Chandra Prajapat, Aged About 53 Years R/o. 48, Rav Colony Masuriya, Jodhpur, District Jodhpur Rajasthan (Address Of The Petitioners Has Been Wrongly Mentioned In The F.I.R.), District : Jodhpur, Rajasthan
3. Tarun Prajapat, W/o Kailash Chandra Prajapat, Aged About 33 Years R/o. 48, Rav Colony Masuriya, Jodhpur, District Jodhpur Rajasthan (Address Of The Petitioners Has Been Wrongly Mentioned In The F.I.R.), District : Jodhpur, Rajasthan

---- Petitioners

Versus

1. State of Chhattisgarh, Through - Station House Officer, Police Station Mahila Thana, Raipur, District Raipur Chhattisgarh., District : Raipur, Chhattisgarh
2. Priti Prajapati, W/o Tarun Prajapat, Aged About 32 Years R/o. D 103, Om Shri King Cart, Khamadih, Raipur, Pandri, District Raipur Chhattisgarh., District : Raipur, Chhattisgarh

---- Respondents

For Petitioner : Shri Prason Agrawal, Advocate
For State : Shri Sudeep Verma, Dy. Govt. Advocate.
For Respondent No.2 : Shri Sachin Nidhi, Advocate

Hon'ble Shri Justice Narendra Kumar Vyas

Order on Board

09-08-2021

1. The petitioners have filed the present petition under Section 482 of the Cr.P.C. seeking quashment of the FIR in connection with Crime No. 13 of 2020 dated 3-2-2020 registered at Police Station Mahila Thana, Raipur, District Raipur for the offence punishable under Section 498A, 34 of the IPC.
2. The case of the prosecution in brief is that the marriage between the petitioner No.3 and respondent No.3 took place on 25-11-2016 at Jodhpur, Rajasthan according to Hindu customs. Respondent No.2 is the working lady regularly used to travel between Jodhpur and Raipur for the purpose of work. The

allegation levelled against the petitioners is that they used to mentally harass respondent No.2 as a result of which she suffered miscarriage. Out of their wedlock one daughter was born. The behaviour of the petitioners was rude and they used to harass her mentally. Therefore, she made a complaint before Mahila Thana, Raipur, on the basis of which FIR was registered for committing offence punishable under Section 498-A, 34 of IPC.

3. Learned counsel for the petitioners would submit that the petitioners have filed the present Cr.M.P. for quashing of FIR dated 3-2-2020 in connection with Crime No. 13 of 2020 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 30-7.2021 has directed the petitioners and respondent No. 2 to appear before the Additional Registrar (Judicial) of this Court for recording of their statements on 2-8-2021. In pursuant to 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 FIR No. 13 of 2020. 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:-

“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

¹ (2019) 5 SCC 688

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 non-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 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, FIR bearing registration No.13 of 2020 registered against the petitioners at Police Station- Mahila Thana, Raipur (C.G.) for committing offence punishable under Section 498-A,. 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.

Sd/-
(Narendra Kumar Vyas)
Judge

Raju