

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 743 of 2021

- Smt. Parul Tiwari W/o Shri Prashant Tiwari Aged About 37 Years Presently Residing At Through Shri Ramkumar Tiwari Near Gajanand Mandir, Gajanand Nagar, Durg, District Durg Chhattigarh.,

---- Petitioner

Versus

1. Prashant Tiwari S/o Shri Hanuman Prasad Tiwari Aged About 43 Years R/o 22 Sonali Niwas Behind Tribal Hostal Khan Colony, District Chhindwada Madhya Pradesh., District : Chhindwara, Madhya Pradesh
2. Hanuman Prasad Tiwari S/o Devtadeen Tiwari Aged About 75 Years R/o Yashwin Society G Wing , Flat No. 502, Behind Tirath Tower, Pune City District Pune Maharashtra.
3. Pamila Tiwari W/o Hanuman Prasad Tiwari Aged About 70 Years R/o Yashwin Society G Wing , Flat No. 502, Behind Tirath Tower, Pune City District Pune Maharashtra.
4. Ashish Tiwari S/o Hanuman Tiwari Aged About 38 Years R/o Yashwin Society G Wing , Flat No. 502, Behind Tirath Tower, Pune City District Pune Maharashtra.
5. State Of Chhattisgarh Through Mahila Police Station , District Durg Chhattisgarh.

---- Respondents

For Petitioner : Mr. Tarendra Kumar Jha, Advocate
For respondents No. 1 to 4 : Mr. Bhaskar Payasi, Advocate.
For Respondent No.5/State. : Mr. Vinod Tekam, Panel Lawyer

Hon'ble Shri Justice Narendra Kumar Vyas

Order on Board

23.08.2021

1. The petitioner has preferred the present petition under Section 482 of the Cr.P.C, seeking quashment of FIR No. 25 of 2021 registered at Mahila Police Station, Durg, District Durg for the offence punishable under Section 498A of the IPC and Section 4 of Dowry Prohibition Act.
2. The case of the prosecution, in brief, is that the marriage was solemnised between the petitioner and respondent No. 1 on 7-5-2009 under the Hindu customary rites and rituals and out of their wedlock two daughters were born. Respondents No. 2 and 3 are

parents of the respondent No.1 whereas respondent No.4 is younger brother of respondent No.1. After marriage respondents No. 1 to 4 used to harass the petitioner for demand of dowry and thereafter petitioner lodged report at Mahila Police Station on 20-2-2021 against them. On the basis of the report, FIR has been lodged against the respondents No. 1 to 4 for offence punishable under Sections 498-A, 34 of IPC and Section 4 of Dowry Prohibition Act.

3. Learned counsel for the petitioner would submit that she has filed the present Cr.M.P. for quashing of FIR No. 0025 of 2021 on the strength of settlement arrived between the petitioner and respondents No. 1 to 4 and now they don't want to continue with the criminal case.
4. This Court vide its order dated 10-08.2021 has directed the petitioner and respondents No. 1 to 4 to appear before the Additional Registrar (Judicial) of this Court for recording of their statements on 13-8-2021. In pursuance of the direction of this Court, the petitioner and respondents No. 1 to 4 entered their appearance and stated in unequivocal terms that now there is no dispute between them, petitioner is not willing to continue with the criminal proceedings and prayed for quashment of the FIR No. 0025 of 2021. She has stated that she has voluntarily deposed that statement, it has been executed without fear, pressure or undue influence from the respondents No. 1 to 4.
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 out of matrimonial relationship or family disputes and when the parties have resolved the entire dispute amongst themselves;

¹ (2019) 5 SCC 688

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 respondents No. 1 to 4. Further, this court is of the opinion that the continuation of criminal proceeding will be nothing, but an abuse of process of law. Accordingly, FIR No.0025 of 2021 registered against respondents No. 1 to 4 at Mahila Police Station, Durg, District Durg (C.G.) for committing offence punishable under Section 498-A of I.P.C and Section 4 of Dowry Prohibition Act, deserves to be and is hereby quashed.
8. In view of the above, the present petition is allowed. No order as to costs.

Sd/-
(Narendra Kumar Vyas)
Judge

Raju

² (2013) 5 SCC 226