

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 795 of 2021

1. Saurabh Agrawal S/o Anil Agrawal Aged About 28 Years R/o Near Bade Hanuman Mandir, Bhusawal, District Jalgaon Maharastra
2. Neelam Agrawal W/o Anil Agrawal Aged About 50 Years R/o Near Bade Hanuman Mandir, Bhusawal, Deepak Nagar, P. S. Mohan Nagar Durg, District Durg Chhattisgarh
3. Sakun Agrawal @ Kisu Agrawal D/o Narayan Agrawal Aged About 19 Years R/o Near Bade Hanuman Mandir, Bhusawal, District Jalgaon Maharastra

---- Petitioners

Versus

1. Puja Agrawal W/o Saurabh Agrawal Aged About 25 Years R/o Aamdi Mandir, Deepak Nagar, P. S. Mohan Nagar Durg District Durg Chhattisgarh
2. State Of Chhattisgarh Through Police Station Mohan Nagar, Durg District Durg Chhattisgarh

---- Respondents

For Petitioners : Mr. Tarendra Kumar Jha, Advocate
For respondent No. 1 : Mr. Praveen Shrivastava, Advocate.
For Respondent No.2/State. : Mr. Rakesh Sahu, Dy. Govt. Advocate

Hon'ble Shri Justice Narendra Kumar Vyas

Order on Board

23.08.2021

1. The petitioners have preferred the present petition under Section 482 of the Cr.P.C, seeking quashment of entire proceedings of Criminal Case No. RCC 5101 of 2019 pending in the Court of Chief Judicial Magistrate, Durg, District Durg .
2. The case of the prosecution, in brief, is that the marriage was solemnized between the petitioner No.1 and respondent No..1 under the Hindu customary rites and rituals. Petitioner No.2 is mother of petitioner No.1 whereas petitioner No.3 is unmarried cousin sister of petitioner No.1. There was some dispute between the petitioner No.1 (husband) and respondent No.1 (wife), on account of this rift, respondent No.1/wife lodged report

at Police Station Mohan Nagar, Durg and after investigation Police field challan against the petitioners for offence punishable under Sections 498-A,, 406 of IPC and Section 4 of Dowry Prohibition Act.

3. Learned counsel for the petitioners would submit that he has filed the present Cr.M.P. for quashing of Criminal Case No. RCC 5101 of 2019 (State vs Saurabh Agrawal and others) on the strength of settlement arrived at between the petitioners and respondent No. 1 and now they don't want to continue with the criminal case. He would further submit that the parties have filed a joint application for compromise before the trial Court, but the trial court rejected the said application as the offences are non-compoundable.
4. This Court vide its order dated 12-08.2021 has directed the petitioners and respondent No. 1 to appear before the Additional Registrar (Judicial) of this Court for recording of their statements on 17-8-2021. In pursuance of the direction of this Court, the petitioners and respondents No.1 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 Criminal Case No. RCC 5101 of 2019. 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 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 petitioners. Further, this court is of the opinion that the continuation of criminal proceeding will be nothing, but an abuse of process of law. Accordingly, Criminal Case No. RCC 5101 of 2019 (State vs Saurabh Agrawal and others) pending in the Court of Chief Judicial Magistrate, Durg, District Durg, deserves to be and is hereby quashed.
8. In view of the above, the present petition is allowed. No order as to costs.
9. A copy of this order be sent to the concerned Judicial Magistrate for necessary compliance and closure of the proceedings.

Sd/-
(Narendra Kumar Vyas)
Judge

Raju

² (2013) 5 SCC 226