

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 22 of 2021

1. Bhaskar Tiwari S/o - Sarju Tiwari Aged About 26 Years Resident Of Sahijana Mohall, Near Devi Mandap, Garwah,jharkhand.
2. Vaidehi Devi W/o - Sarju Tiwari Aged About 66 Years Resident Of Sahijana Mohalla, Near Devi Mandap, Garwah, Jharkhand
3. Sarju Tiwari S/o - Late Vasudev Tiwari Aged About 68 Years Resident Of Sahijana Mohalla, Near Devi Mandap, Garwah, Jharkhand

---- Petitioners

Versus

1. State Of Chhattisgarh Through The Police Station Mahila Thana, District Durg, Chhattisgarh
2. Smt. Anu Kumari W/o - Bhaskar Tiwari Aged About 24 Years Resident Of Girls Hostel Kawandpur, C M Medical College, Pulgaon, Durg, Chattisgarh.

---- Respondents

For Petitioners : Smt. Binu Sharma, Advocate

For State : Shri Rakesh Sahu, Dy. Govt. Advocate

For Respondent No.2: Shri Aman Pandey, Advocate

Hon'ble Shri Justice Narendra Kumar Vyas

Order on Board

22.06.2021

1. The present petition under Section 482 of the Cr.P.C. has been filed seeking quashment of FIR No. 51/2019 registered at Police Station Mahila Thana, District – Durg for the offence punishable under Section 498A, 34 of the IPC. The FIR has been registered on the basis of complaint made by respondent No. 2.
2. The allegation made in the complaint is that petitioners No. 1 and 3 are demanding Rs. 10 lakhs as dowry from parents of respondent No.2. Petitioner No. 1 used to torture her physically and mentally. The marriage of petitioner No. 1 and respondent No. 2 was solemnized on 19.01.2015 thereafter the petitioners started demanding Rs. 10 Lakhs from her. When she was unable

to fulfil their demand of money they were committing assault on her, threatening her to kill. Therefore, she filed a complaint for offence under Section 498A and 34 IPC. On the strength of her complaint, FIR No. 51/2019 has been registered before Mahila Police, Station, Durg.

3. Learned counsel for the petitioners would submit that they have filed the present Cr.M.P. for quashing of the entire proceedings arising out of FIR No. 51/2019 on the strength of settlement arrived at between the petitioner No. 1 and respondent No. 2. The Petitioners have also annexed memorandum of understanding Annexure-A4 dated 05.10.2020 along with petition wherein they have reached to the final settlement between them. The parties mutually agreed to withdraw all the allegation and accusation levelled against each other and against family members of each other at any stage. After the quashing of the FIR and criminal proceeding, they will obtain decree of divorce by mutual consent and would not interfere with the personal life of each other.
4. Considering the Memorandum of Understanding between the parties, this Court vide its order dated 13.01.2021 has directed the petitioners and respondent No. 2 to appear before the Additional Registrar (Judicial) of this Court for recording of their statements on 18.01.2021. In pursuance of the direction of this Court, respondent No. 2 entered her appearance on 18.01.2021 and stated in unequivocal terms that now there is no dispute between the petitioners and respondent No.2, she is not willing to continue with the criminal proceedings and prayed for quashment of the FIR No. 51/2019 registered at Police Station – Mahila Thana, Durg. 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:-

¹ (2019) 5 SCC 688

“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 impart 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 not 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.
8. Accordingly, the FIR bearing registration No. 51/2019 registered against the petitioners at Police Station- Mahila Thana, District-Durg (C.G.) for committing offence punishable under Section 498-A, 34 of I.P.C., deserves to be and is hereby quashed in the interest of justice.

² (2013) 5 SCC 226

9. In view of the above, the present petition is allowed. No order as to costs.
10. Copy of this order be sent to the concerned Judicial Magistrate for necessary compliance and closure of the proceedings.

Sd-
(Narendra Kumar Vyas)
Judge

kishore