



NAFR

**HIGH COURT of CHHATTISGARH, BILASPUR**

**CR.M.P. No. 245 of 2023**

1. Sanjeev Kumar Sharma S/o Surendra Kumar Sharma Aged About 32 Years
2. Surendra Kumar Sharma S/o Sunder Lal Sharma Aged About 62 Years
3. Smt. Asha Sharma W/o Surendra Kumar Sharma Aged About 55 Years

All are R/o Qtr. No. 848, Balapur, Durbhash Nagar ITI in front of Gate No. 03, Raibareli (U.P.)

**---- Petitioners**

**Versus**

1. Dr. Shweta Vishwakarma, W/o. Sanjeev Kumar Sharma, aged about 30 years, F/o Rajendra Vishwakarma, R/o. Gali No. 04, Kashyap Colony Bilaspur, Tehsil and District Bilaspur (C.G.)
2. State of Chhattisgarh, through : Mahila Police Station, Bilaspur District Bilaspur, (C.G.)

**---- Respondents**

For Petitioners : Mr. Akhilesh Kumar, Advocate  
For Respondent No.1 : Ms. Prabha Sharma, Advocate  
For State/respondent No.2 : Mr. Sameer Oraon, Govt. Advocate

**S.B.: Hon'ble Shri Parth Prateem Sahu, Judge**

**Order on Board**

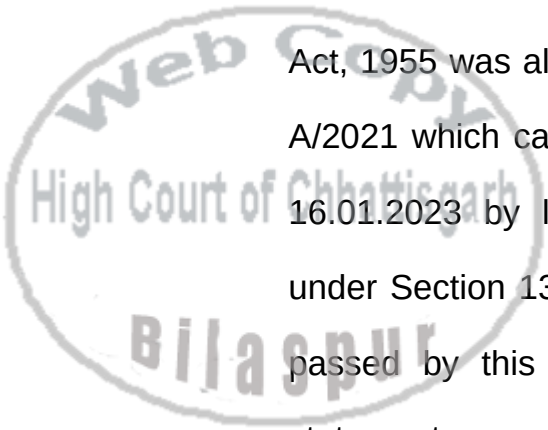
**20/03/2023**

1. Petitioner has filed this criminal miscellaneous petition for quashment of criminal proceeding of Criminal Case No. 603 of 2021, pending before the Judicial Magistrate First Class, Bilaspur arising out of Crime No.36 of 2020 registered at Mahila Police Station, Bilaspur for offence under Section 498-A, 34 of the Indian Penal



Code.

2. Learned counsel for petitioner submits that marriage of petitioner was solemnized with respondent No.1 on 21.11.2019 according to Hindu rites and rituals. Due to some dispute arose between them, respondent No.1 left her matrimonial home and thereafter lodged report in Mahila Thana (Police Station), Bilaspur, which was registered as FIR No.36 of 2020. After investigation, police submitted charge-sheet for offence under Section 498A, 34 of I.P.C. before the Judicial Magistrate First Class, Bilaspur and trial is pending. During the pendency of criminal proceeding, settlement between the parties have been arrived at and respondent No.1 executed settlement deed on 20.12.2022. An application under Section 13-B of Hindu Marriage Act, 1955 was also filed, which was registered as Civil Suit No.124-A/2021 which came to be allowed vide judgment and decree dated 16.01.2023 by learned Family Court granting decree of divorce under Section 13-B of Hindu Marriage Act, 1955. Pursuant to order passed by this Court on 03.02.2023 both the parties got their statements recorded before the Additional Registrar (Judicial) on 23.03.2022 and respondent No.1 in her statement admitted that she executed settlement deed and she does not want any further proceedings against petitioner in Criminal Case No. 603 of 2021. Statement of petitioner No.1 was also recorded. He submits that as the parties have entered into settlement and complainant herself does not want any further action in criminal proceeding registered against petitioners, hence, criminal proceeding be quashed.
3. Learned counsel for respondent No.1 do not dispute the submission of learned counsel for petitioners.
4. Learned State counsel submits that the offence registered against





petitioners under Section 498-A, 34 of I.P.C. is not compoundable.

5. I have heard learned counsel for parties and perused the documents placed on record.
6. Perusal of the record would show that petitioner along with petition has submitted copy of settlement deed dated 20.12.2022 between petitioner No.1 and respondent No.1 (Annexure A-2). Along with covering memo petitioner has also placed on record the judgment and decree dated 16.01.2023 under Section 13-B of Hindu Marriage Act, 1955 passed by learned Family Court, Bilaspur in Civil Suit No.124-A/2021.
7. Pursuant to order passed by this Court, Additional Registrar (Judicial) recorded statement of petitioner No.1 and respondent No.1 on 23.02.2023. Respondent No.1 in her statement specifically stated that she entered into compromise/settlement with petitioners on 20.12.2022. The decree of divorce was passed on 16.01.2023 and she does not want any further proceedings in Criminal Case No. 603 of 2021 against petitioners for offence under Section 498-A, 34 of I.P.C.
8. Hon'ble the Supreme Court in the case of **B.S. Joshi and Ors. Vs. State of Haryana and Anr.** reported in **(2003) 4 SCC 675** has considered the issue of quashing criminal proceedings arising out of matrimonial dispute particularly for the offence under Section 498-A IPC and held thus:-

“13. The observations made by this Court, though in a slightly different context, in G.V. Rao v. L.H.V. Prasad & Ors. [(2000) 3 SCC 693] are very apt for determining the approach required to be kept in view in matrimonial dispute by the courts. It was said that there has been



an outburst of matrimonial disputes in recent times. Marriage is a sacred ceremony, the main purpose of which is to enable the young couple to settle down in life and live peacefully. But little matrimonial skirmishes suddenly erupt which often assume serious proportions resulting in commission of heinous crimes in which elders of the family are also involved with the result that those who could have counselled and brought about rapprochement are rendered helpless on their being arrayed as accused in the criminal case. There are many other reasons which need not be mentioned here for not encouraging matrimonial litigation so that the parties may ponder over their defaults and terminate their disputes amicably by mutual agreement instead of fighting it out in a court of law where it takes years and years to conclude and in that process the parties lose their "young" days in chasing their "cases" in different courts.

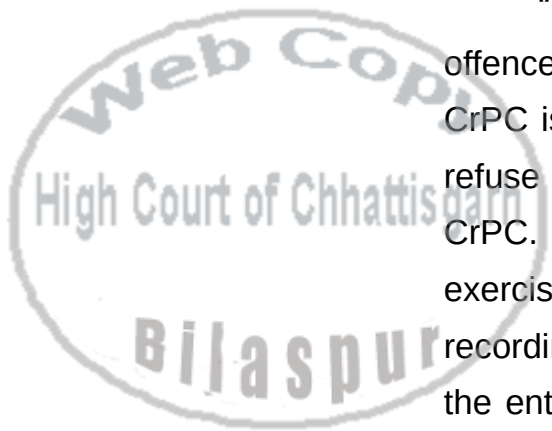
14. There is no doubt that the object of introducing Chapter XX-A containing Section 498A in the Indian Penal Code was to prevent the torture to a woman by her husband or by relatives of her husband. Section 498A was added with a view to punishing a husband and his relatives who harass or torture the wife to coerce her or her relatives to satisfy unlawful demands of dowry. The hyper-technical view would be counter productive 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 Indian Penal Code."

9. The Hon'ble Supreme Court in case of **Gian Singh Vs. State of Punjab & Another**, reported in **(2012) 10 SCC 303** while considering its earlier ruling in *Shiji alias Pappu & ors Vs. Radhika & anr.* reported in (2011) 10 SCC 705 has held thus :-



“41. In *Shiji vs. Radhika* this Court considered the exercise of inherent power by the High Court under Section 482 in a matter where the offence was not compoundable as the accused was already involved in commission of the offences punishable under Sections 354 and 394 IPC. The High Court rejected the prayer by holding that the offences with which appellants were charged are not ‘personal in nature’ to justify quashing the criminal proceedings on the basis of a compromise arrived at between the complainant and the appellants. This Court considered earlier decisions of this Court, the provisions contained in Sections 320 and 394 of the Code and in paragraphs 17, 18 and 19 (pgs. 712 and 713) of the Report held as under:

“17. It is manifest that simply because an offence is not compoundable under Section 320 CrPC is by itself no reason for the High Court to refuse exercise of its power under Section 482 CrPC. That power can in our opinion be exercised in cases where there is no chance of recording a conviction against the accused and the entire exercise of a trial is destined to be an exercise in futility. There is a subtle distinction between compounding of offences by the parties before the trial court or in appeal on the one hand and the exercise of power by the High Court to quash the prosecution under Section 482 CrPC on the other. While a court trying an accused or hearing an appeal against conviction, may not be competent to permit compounding of an offence based on a settlement arrived at between the parties in cases where the offences are not compoundable under Section 320, the High Court may quash the prosecution even in cases where the offences with which the accused stand charged are non- compoundable. The inherent powers of the High Court under Section 482

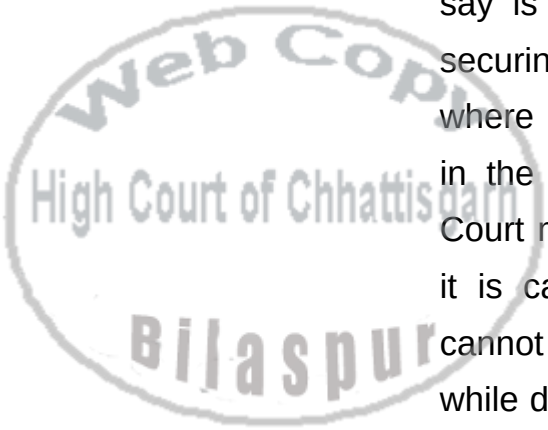




CrPC are not for that purpose controlled by Section 320 CrPC.

18. Having said so, we must hasten to add that the plenitude of the power under Section 482 CrPC by itself, makes it obligatory for the High Court to exercise the same with utmost care and caution. The width and the nature of the power itself demands that its exercise is sparing and only in cases where the High Court is, for reasons to be recorded, of the clear view that continuance of the prosecution would be nothing but an abuse of the process of law. It is neither necessary nor proper for us to enumerate the situations in which the exercise of power under Section 482 may be justified. All that we need to say is that the exercise of power must be for securing the ends of justice and only in cases where refusal to exercise that power may result in the abuse of the process of law. The High Court may be justified in declining interference if it is called upon to appreciate evidence for it cannot assume the role of an appellate court while dealing with a petition under Section 482 of the Criminal Procedure Code. Subject to the above, the High Court will have to consider the facts and circumstances of each case to determine whether it is a fit case in which the inherent powers may be invoked.

19. Coming to the case at hand, we are of the view that the incident in question had its genesis in a dispute relating to the access to the two plots which are adjacent to each other. It was not a case of broad daylight robbery for gain. It was a case which has its origin in the civil dispute between the parties, which dispute has, it appears, been resolved by them. That being so, continuance of the prosecution where the complainant is not ready to support the

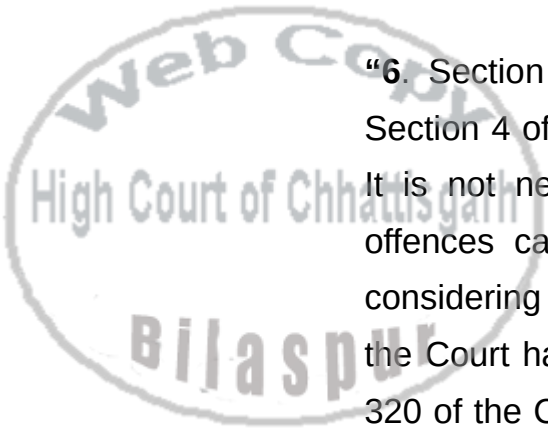




allegations which are now described by her as arising out of some “misunderstanding and misconception” will be a futile exercise that will serve no purpose. It is noteworthy that the two alleged eyewitnesses, who are closely related to the complainant, are also no longer supportive of the prosecution version. The continuance of the proceedings is thus nothing but an empty formality. Section 482 CrPC could, in such circumstances, be justifiably invoked by the High Court to prevent abuse of the process of law and thereby preventing a wasteful exercise by the courts below. ”

10. Hon'ble the Supreme Court in the case of **Manohar Singh Vs. State of Madhya Pradesh and Anr. (2014) 13 SCC 75** has held thus:-

“6. Section 498-A of the IPC is non-compoundable. Section 4 of the Dowry Act is also non-compoundable. It is not necessary to state that non-compoundable offences cannot be compounded by a Court. While considering the request for compounding of offences the Court has to strictly follow the mandate of Section 320 of the Code. It is, therefore, not possible to permit compounding of offences under Section 498-A of the IPC and Section 4 of the Dowry Act. However, if there is a genuine compromise between husband and wife, criminal complaints arising out of matrimonial discord can be quashed, even if the offences alleged therein are non-compoundable, because such offences are personal in nature and do not have repercussions on the society unlike heinous offences like murder, rape etc. (See Gian Singh v. State of Punjab [(2012) 10 SCC 303]) . If the High Court forms an opinion that it is necessary to quash the proceedings to prevent abuse of the process of any court or to secure ends of justice, the High Court can do so. The inherent power of the High Court under Section 482 of the Code is not inhibited by Section 320 of the Code. Needless to say





that this Court can also follow such a course. ”

11. In the aforementioned facts of the case and considering the decision of Hon'ble Supreme Court, this petition is allowed and the criminal proceeding pending before the Court of Judicial Magistrate First Class, Bilaspur in Criminal Case No. 603 of 2021 for the offence under Section 498-A, 34 of I.P.C. is hereby quashed.
12. The petition is accordingly allowed.

Sd/-  
**(Parth Prateem Sahu)**  
Judge

Balram

