
(2019) 03 CHH CK 0070

In the Chhattisgarh High Court

Case No : Criminal Miscellaneous Petition (CRMP) No. 163 Of 2019

Onkar Prasad Sahu And Ors

APPELLANT

Vs

State Of Chhattisgarh And Ors

RESPONDENT

Date of Decision : 08-03-2019

Acts Referred:

Indian Penal Code, 1860 — Section 34, 498A
Dowry Prohibition Act, 1961 — Section 3, 4

Citation : (2019) 03 CHH CK 0070

Hon'ble Judges : Goutam Bhaduri, J

Bench : Single Bench

Advocate : P.M. Shrivastava, Ghanshyam Patel, Akash Pandey, Keshav Dewangan

Final Decision : Allowed

Judgement

Goutam Bhaduri, J

1. Heard.

2. The present petition is to quash the proceedings of criminal case No.2134/2015 pending before the JMFC, Katghora, District Korba under Section 498(A)/34 IPC against the petitioners.

3. As per the prosecution case, the marriage of the complainant/respondent No.2 Smt. Geeta Sahu was solemnized with the petitioner No.1 Onkar Prasad Sahu on 24th of May, 2013. Subsequently, respondent No.2 was subjected to torture & cruelty for demand of dowry as such the case under Section 498-A read with Section 34 IPC and Sections 3 & 4 of the Dowry Prohibition Act was registered at Police Station Kusmunda. Eventually, the charge-sheet was filed and the charges have been framed under 498 (A) read with Section 34 IPC.

4. Learned counsel for the petitioners would submit that the parties have amicably settled the dispute and presently the complainant/respondent No.2 is residing with the petitioners and she do not want to further continue her criminal

case which is pending before the Court below, therefore, the same may be quashed.

5. Perusal of the record would show that statement of Geeta Sahu was recorded before the Additional Registrar (Judicial) wherein she has stated that she has entered into compromise without any undue fear, favour and pressure and she do not want to further continue her complaint against the petitioners as they are residing together. The complainant is also present before the Court and she also notarized the fact that she is residing with the petitioners' family.

6. The Hon'ble Supreme Court in *Gian Singh v. State of Punjab & Another* 1 has laid down the following principles :

"61. The position that emerges from the above discussion can be summarised thus: the power of the High Court in quashing a criminal proceeding or FIR or complaint in exercise of its inherent jurisdiction is distinct and different from the power given to a criminal court for compounding the offences under Section 320 of the Code. Inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accord with the guideline engrafted in such power viz; (i) to secure the ends of justice or (ii) to prevent abuse of the process of any Court. In what cases power to quash the criminal proceeding or complaint or F.I.R may be exercised where the offender and victim have settled their dispute would depend on the facts and circumstances of each case and no category can be prescribed. However, before exercise of such power, the High Court must have due regard to the nature and gravity of the crime. Heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. cannot be fittingly quashed even though the victim or victim's family and the offender have settled the dispute. Such offences are not private in nature and have serious impact on society. Similarly, any compromise between the victim and offender in relation to the offences under special statutes like Prevention of Corruption Act or the offences committed by public servants while working in that capacity etc; cannot provide for any basis for quashing criminal proceedings involving such offences. But the criminal cases having overwhelmingly and predominately civil flavour stand on different footing for the purposes of quashing, particularly the offences arising from commercial, financial, mercantile, civil, partnership or such like 1 (2012) 10 SCC 303 transactions or the offences arising out of matrimony relating to dowry, etc. or the family disputes where the wrong is basically private or personal in nature and the parties have resolved their entire dispute. In this category of cases, High Court may quash criminal proceedings if in its view, because of the compromise between the offender and victim, the possibility of conviction is remote and bleak and continuation of criminal case would put accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case despite full and complete settlement and compromise with the victim. In other words, the High Court must consider whether it would be unfair or contrary to the interest of justice to continue with the criminal proceeding or continuation of the criminal proceeding

would tantamount to abuse of process of law despite settlement and compromise between the victim and wrongdoer and whether to secure the ends of justice, it is appropriate that criminal case is put to an end and if the answer to the above question(s) is in affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding.

7. Further, in case of Parbatbhai Aahir @ Parbatbhai Bhimsinhbhai Karmur & Ors. in criminal Appeal No.1723 of 2017 their Lordship again reiterated the view taken in case of Gian Singh (supra) and has laid down the following propositions :

"15. The broad principles which emerge from the precedents on the subject, may be summarised in the following propositions :

(i) Section 482 preserves the inherent powers of the High Court to prevent an abuse of the process of any court or to secure the ends of justice. The provision does not confer new powers. It only recognises and preserves powers which inhere in the High Court;

(ii) The invocation of the jurisdiction of the High Court to quash a First Information Report or a criminal proceeding on the ground that a settlement has been arrived at between the offender and the victim is not the same as the invocation of jurisdiction for the purpose of compounding an offence. While compounding an offence, the power of the court is governed by the provisions of Section 320 of the Code of Criminal Procedure, 1973. The power to quash under Section 482 is attracted even if the offence is non-compoundable.

(iii) In forming an opinion whether a criminal proceeding or complaint should be quashed in exercise of its jurisdiction under Section 482, the High Court must evaluate whether the ends of justice would justify the exercise of the inherent power;

(iv) While the inherent power of the High Court has a wide ambit and plenitude it has to be exercised; (i) to secure the ends of justice or (ii) to prevent an abuse of the process of any court;

(v) The decision as to whether a complaint or First Information Report should be quashed on the ground that the offender and victim have settled the dispute, revolves ultimately on the facts and circumstances of each case and no exhaustive elaboration of principles can be formulated;

(vi) In the exercise of the power under Section 482 and while dealing with a plea that the dispute has been settled, the High Court must have due regard to the nature and gravity of the offence. Heinous and serious offences involving mental depravity or offences such as murder, rape and dacoity cannot appropriately be quashed though the victim or the family of the victim have settled the dispute. Such offences are, truly speaking, not private in nature but have a serious impact upon society. The decision to continue with the trial in such cases is founded on the overriding element of public interest in punishing persons for serious offences;

(vii) As distinguished from serious offences, there may be criminal cases which have an overwhelming or predominant element of a civil dispute. They stand on a distinct footing in so far as the exercise of the inherent power to quash is concerned;

(viii) Criminal cases involving offences which arise from commercial, financial, mercantile, partnership or similar transactions with an essentially civil flavour may in appropriate situations fall for quashing where parties have settled the dispute;

(ix) In such a case, the High Court may quash the criminal proceeding if in view of the compromise between the disputants, the possibility of a conviction is remote and the continuation of a criminal proceeding would cause oppression and prejudice; and

(x) There is yet an exception to the principle set out in propositions

(viii) and (ix) above. Economic offences involving the financial and economic well-being of the state have implications which lie beyond the domain of a mere dispute between private disputants. The High Court would be justified in declining to quash where the offender is involved in an activity akin to a financial or economic fraud or misdemeanour. The consequences of the act complained of upon the financial or economic system will weigh in the balance."

8. Considering the statements made by the parties, which has been cross-checked by the State counsel that the settlement has been arrived at in between the parties and both the parties are living together as husband & wife and looking to the inter-se relations between the parties as also considering the nature of complaint which appears to be private in nature, applying the aforesaid principles laid down by the Supreme Court, I am of the opinion that the ends of justice would be sub-served if the proceedings pending in criminal case No.2134/2015 pending before the JMFC, Katghora, District Korba are quashed. Accordingly, the proceedings in Criminal Case No.2134/2015 under Section 498A read with Section 34 of the I.P.C. are quashed. The petitioners are acquitted for the charges leveled against them.

9. The CRMP stands allowed.