

(2019) 04 CHH CK 0065

In the Chhattisgarh High Court

Case No : Criminal Misc. Petition No. 762 Of 2019

Seema Mawani And Ors

APPELLANT

Vs

Deepshikha Mawani And Ors

RESPONDENT

Date of Decision : 09-04-2019

Acts Referred:

Indian Penal Code, 1860 — Section 34, 406, 498A
Dowry Prohibition Act, 1961 — Section 4
Code Of Criminal Procedure, 1973 — Section 320, 482

Citation : (2019) 04 CHH CK 0065

Hon'ble Judges : Sanjay K. Agrawal, J

Bench : Single Bench

Advocate : T.K. Jha, S.R. Pophali, Priyank Rathi

Final Decision : Allowed

Judgement

Sanjay K. Agrawal, J

1. Marriage of petitioner No.3 - Dhawal Mawani was solemnized with respondent No.1 - Smt. Deepshikha Mawani on 30-4-2015, thereafter, within short time, dispute arose between the parties leading to lodging of first information report by the father of respondent No.1 to the jurisdictional police pursuant to which offence punishable under Sections 498A and 406 read with Section 34 of the IPC and Section 4 of the Dowry Prohibition Act was registered against the petitioners. During the course of trial, parties have settled the dispute and compounded the offence punishable under Section 406 of the IPC by order dated 12-3-2019 passed by the Judicial Magistrate First Class, Durg, but the learned Judicial Magistrate has held that offence punishable under Sections 498A of the IPC and 4 of the Dowry Prohibition Act is not compoundable without the leave of the court. Now, the parties have filed this petition stating inter alia that they have settled the dispute amicably and they do not want to prosecute the offence further. During the course of this proceeding, statements of the parties were recorded in which they have stated that they have settled the dispute amicably

and the respondents have submitted that they do not wish to prosecute the criminal case further.

2. I have heard learned counsel for the parties and considered their rival submissions made herein-above.

3. Recently, the Supreme Court in the matter of State of Madhya Pradesh v. Laxmi Narayan and others 2019 SCC OnLine SC 320 has laid down the following parameters for exercising the power under Section 482 of the CrPC and held as under: -

"31. Considering the law on the point and the other decisions of this Court on the point, referred to hereinabove, it is observed and held as under:

i) 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;"

4. Thus, it is quite vivid that power under Section 482 of the CrPC can be exercised to quash the criminal proceeding for non-compoundable offence under Section 320 of the CrPC arising out of matrimonial relationship when the parties have resolved their dispute amicably. In the instant case, parties have appeared before this Court and also made statement on oath that they have settled their dispute amicably and the dispute being matrimonial dispute registered under Sections 498A of the IPC and 4 of the Dowry Prohibition Act which are non-compoundable, I consider it to be a fit case for exercising the jurisdiction under Section 482 of the CrPC in light of Laxmi Narayan's case (supra) and hereby quash the petitioners' prosecution for the offence punishable under Sections 498A read with Section 34 of the IPC and 4 of the Dowry Prohibition Act and the petitioners are acquitted of the said charges.

5. The petition is allowed to the extent indicated herein-above.