



AFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**CRA No. 660 of 2022**

1. Neelam Khatri W/o Rajbir Khatri Aged About 39 Years R/o Ward No. 08, Satnamipara, Berla, Police Station Berla, District Bemetara Chhattisgarh.
2. Sandeep Khatri S/o Rajbir Khatri Aged About 28 Years R/o Ward No. 08, Satnamipara, Berla, Police Station Berla, District Bemetara Chhattisgarh.

---- Appellants

Versus

1. State Of Chhattisgarh Through Police Station Berla, District Bemetara Chhattisgarh.

---- Respondent

And**CRA No. 746 of 2022**

1. Rajbir Khatri S/o Rampat Khatri Aged About 45 Years R/o Ward No. 8, Satnami Para Berla, P.S. Berla, District : Bemetara, Chhattisgarh

---- Appellant

Versus

1. State Of Chhattisgarh Through Station House Officer, Berla, District : Bemetara, Chhattisgarh

---- Respondent

(Cause-Title taken from Case Information System)

For Appellants in CRA No. 660/22 : Mr. Vaibhav A Goverdhan, Advocate.
For Appellant in CRA No. 746/22 : Mr. Y.C. Sharma, Sr.Advocate along with
Mr. Vivek Sharma, Advocate
For State : Ms. Abhyunnati Singh, Panel Lawyer.

Hon'ble Shri Justice P. Sam Koshy
Judgment on Board

02/03/2023

1. Since the present two Criminal Appeals, i.e. Cr.A. No.660/2022 and Cr.A. No.746/2022, filed under Section 374(2) of Cr.P.C, arise out of a common Judgment, also arise of a common FIR and a common trial, this Court proceeds to decide both the Appeals by this common Judgment.

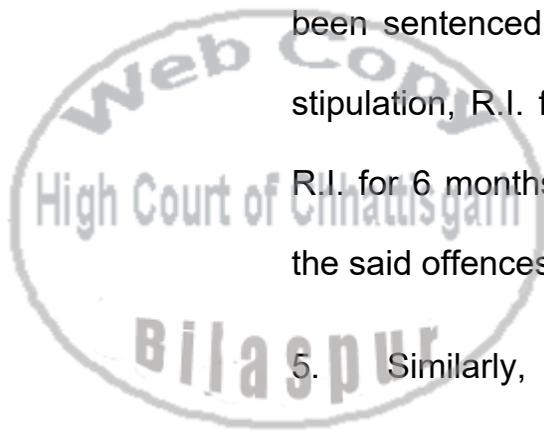


2. The Cr.A.No. 660/2022 has been filed by mother-in-law and husband of the complainant/victim and Cr.A. No.746/2022 is by father-in-law of the complainant.

3. The challenge in the present Appeals is to the Judgment dated 02.04.2022 passed by the 1st Additional Sessions Judge (FTC), Bemetara, in Session Trial No. 40/2020.

4. In Criminal Appeal No.660/2022, vide the impugned Judgment, the appellants, i.e. the mother-in-law and husband of the complainant, both stand convicted for the offence punishable under Sections 498-A of IPC and also under Section 3 & 4 of the Dowry Prohibition Act 1961. Each of them has been sentenced to undergo R.I. for 2 years & fine of Rs.500/- with default stipulation, R.I. for 5 years & fine of Rs.15000/- with default stipulation and R.I. for 6 months & fine of Rs.500/- with default stipulation, respectively, for the said offences.

5. Similarly, in Criminal Appeal No.746/2022, vide the impugned Judgment, the appellant, i.e. father-in-law of the complainant, also stands convicted under Section 498-A of IPC and Section 3 & Section 4 of the Dowry Prohibition Act and has been sentenced to undergo R.I. for 2 years & fine of Rs.500/- with default stipulation, R.I. for 5 years & fine of Rs.15000/- with default stipulation and R.I. for 6 months & fine of Rs.500/- with default stipulation, respectively, for the said offences. . In addition to the said offences, the father-in-law also stands convicted for the offence punishable under Section 376/511 and 354 of IPC and has been sentenced to undergo R.I. for 5 years & fine of Rs. 500/- with default stipulation and R.I. for 1 year & fine of Rs.500/- with default stipulation.





6. Facts of the case, in brief, are that the marriage between Appellant No.2 in Cr.A. No. 660/2022 Sandeep Khatri and the Complainant Neetu Khatri is said to have taken place on 14.05.2014. In due course of time, there appears to a strained relationship developed between the two and also the in-laws. Things went extreme when the Complainant lodged a written complaint on 08.07.2020 before the Mahila Police Station, Bemetara, against the Appellants. Subsequently, an FIR was lodged on the basis of the said complaint, on 02.09.2020. In the written report as also in the FIR that was lodged, there was an allegation against the father-in-law Rajbir Khatri of trying to attempt rape on the Complainant and outraging her modesty. However, there was no specific date on which the father-in-law is said to have attempted to commit rape on her.

7. The matter was put to investigation. Thereafter, charge-sheet was filed and the matter was put to trial before First Additional Session Judge (FTC), Bemetara. During the course of trial, the Prosecution has examined as many as 14 witnesses and no witness was examined in defence.

8. After recording of the statement of the accused persons under Section 313 of Cr.P.C., the impugned Judgment was passed on 02.04.2022 wherein the Appellants have been found guilty and accordingly sentenced under the offences, as has already been narrated in the preceding paragraph.

9. It is relevant to mention here that all the three Appellants in both the Appeals have been released on bail vide order dated 04.05.2022. Even, at the time of grant of bail to the Appellants, the Complainant was noticed. She had appeared through a duly engaged counsel Shri Umakant Chandel and had not opposed the bail Applications. The Appellants were also on bail during trial.



10. Pending the proceedings before this Court, now an Application i.e. I.A. No.3 under Section 320(5) of Cr.P.C. has been filed for disposal of the Appeal in the light of the compromise that has been entered into between the Appellants and the Complainant Neetu Khatri. There is also an Application i.e. I.A. No.2 filed under 320(2) of Cr.P.C. for compounding of the offence. Upon such Applications being filed, this Court on 18.11.2022 had directed the parties to appear before the Registrar (Judicial) of this High Court for recording of their statement in the light of the Applications under Section 320(2) and 320(5) of Cr.P.C.

11. In-terms of the order passed by this High Court on 18.11.2022, the parties entered appearance before the Registrar (Judicial) of this High Court on 14.12.2022 and had recorded their statement including the statement of the Complainant. All the parties who have recorded their statement have made a categorical statement that they have finally decided to resolve the dispute between them and, as a consequence of the settlement/compromise arrived at between the parties, they do not want the Appeals to remain pending any further. The Complainant also does not want to pursue with the Appeals as an Objector any further. She wants the Appeals to be disposed of in terms of the compromise that has been arrived at between the parties.

12. Today, when the matter is taken up for hearing, the Complainant was duly represented by the counsel and on a query being put to the counsel for the Complainant, he has again made a categorical statement that he has instruction to state that the parties have settled the dispute and they do not intend to pursue the case any further and they want the matter to be disposed of in terms of the settlement.

13. So far as Cr.A. No.660/2022 is concerned, wherein the two Appellants have been convicted only for the offences punishable under Section 498-A of



IPC and Section 3 & Section 4 of the Dowry Prohibition Act, in the light of the settlement/ compromise arrived at between the parties and on the specific statement being recorded before the High Court itself, particularly the statement recorded of the Complainant- Neetu Khatri, this Court is of the opinion that in the given factual matrix of the case, in the larger interest of justice, the two Applications (I.A. No.2 & 3) jointly filed by the Appellants and the Complainant under Section 320(2) and 320(5) both deserve to be and is accordingly allowed. The parties are permitted to compound the offence and are granted permission to compromise the offences for which the two Appellants have been charged and have also been convicted.

14. As a consequence of allowing I.A. No. 2 & 3 i.e. Application under Section 320(2) and 320(5), the I.A. 4, which is an Application under Section 320(8) of Cr.P.C. for Acquittal of the Appellants, the same also deserves to be and is accordingly allowed as a consequence of the settlement/compromise entered into between the parties. Resultantly, Cr.A. No.660/2022 stands allowed. The two Appellants stand acquitted of all the charges levelled against them.

15. As regards Cr.A. No.746/2022, as has been stated in the preceding paragraph, the Appellant Rajbir Khatri, the father-in-law of the complainant, also stands convicted under Section 498-A of IPC and Sections 3 & 4 of the Dowry Prohibition Act. In addition, he also stands convicted under Section 376/511 and 354 of IPC.

16. In the light of the settlement that has been arrived at between the parties and the statements being recorded before the Registrar (Judicial) of the High Court and which has also been brought on record, there should not be any difficulty so far as accepting the Applications of the parties jointly filed



under Sections 320(2), 320(5) and 320(8) of CrPC so far as the offence under Section 498-A of IPC and 3 & 4 of the Dowry Prohibition Act is concerned.

17. The only issue which came up for discussion during the course of hearing is, would it be justifiable in the given factual matrix of the case to compound an offence punishable under Section 376/511 and 354 of IPC for which the father-in-law of the complainant also stands convicted by the Trial Court.

18. Learned Senior Counsel appearing for father-in-law of the complainant submits that the fact which needs appreciation is that the Complainant is the daughter-in-law of the Appellant Rajbir Khatri. The core dispute between the parties was the alleged demand of dowry and harassment that followed the said demand. The demand of dowry was alleged against the mother-in-law and husband as well. It was only to enhance the gravity of the offence and for stringent action to be taken by the Police authorities against the in-laws of the complainant that the allegation of the offence under Section 354 and also 376/511 of IPC was made.

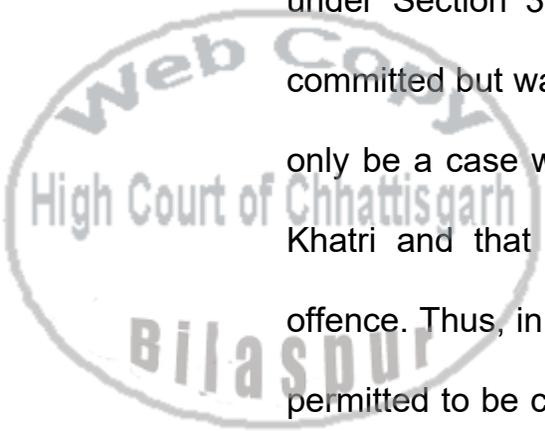
19. Learned Senior Counsel, referring to the records, submits that it is a case where the original written report lodged by the Complainant was that of 08.07.2020. The plain reading of the written report itself would clearly give an indication that it is bereft of details *inasmuch* as no specific date and time and period during which the alleged act under Section 354, or for that the matter, under Section 376/511 was committed by the father-in-law. This itself would give a sufficient indication of the case of the prosecution to be highly improbable and the said sections have been only added with a clear intention of enhancing the gravity of the offence and for stringent action to be taken against the in-laws at the behest of the daughter-in-law/complainant and also to put more pressure on the Appellants



20. It was the further contention of learned Sr. Counsel that now that the parties have resolved all their disputes and have entered into a compromise/settlement and they intend to compound the offence, the said offence under Section 354 and 376/511 of IPC also should be permitted to be compounded failing which the settlement and the compromise arrived at between the parties would lose its efficacy and the dispute between the parties would continue.

21. Further submission of learned Sr. Counsel is that from the plain reading of the contents of the written report lodged by the Complainant as also the from the contents of the FIR, it would clearly reflect that both the offences i.e. under Section 354 as also under Section 376/511, have not in-fact been committed but was only an allegation. If, at all, it is held to be proved, it would only be a case where it was an attempt being made by the Appellant-Rajbir Khatri and that would perhaps lessen the nature and the gravity of the offence. Thus, in the given factual backdrop, the said offences also should be permitted to be compounded as has been permitted in the case of mother-in-law and husband of the complainant, i.e. Cr.A. No. 660/2022.

22. In the instant appeal also, learned Counsel for the Complainant has taken the same stand as was taken in Cr.A. No. 660/2022. He makes a submission that he has instruction to state that the Complainant also now wants that the dispute is resolved once and for all. She also wants all the pending Appeals and litigation between the parties to be closed. He further makes a submission that in-terms of the settlement that has been arrived at between the parties, the Complainant had also received the entire amount as agreed upon between the parties, half of which she has received in advance and half she has received in the High Court on the date when the statement was recorded before the Registrar (Judicial). Learned Counsel for





Complainant further submits that she has also jointly made the said Applications i.e. I.A. Nos. 2,3 & 4 and the same has also been made so far as the case against the father-in-law as well.

23. Learned State Counsel, on the other hand, raises a formal objection so far as compounding of the offences in the instance appeal is concerned, on the ground that there is a judgment of conviction operating against the Appellant Rajbir Khatri for the offence punishable under Sections 376/511 and 354 of IPC. In respect of these offences, learned State Counsel submits that though the parties have entered into a compromise but since there is a judgment of conviction for the said offences, it would not be proper for this Court at this juncture to permit compounding the said offences looking to the gravity and nature of crime.

24. It was also the contention of learned State Counsel if this Court permits the present case to be compounded/compromised and acquits the Appellant Rajbir Khatri, there is all likelihood of this decision of this Court may be taken for precedent purpose in the other appeals also and which may have far reaching affect.

25. Having heard the contention put forth on either side and also taking note of the submissions rendered by the counsel for parties, it would be relevant at this juncture to take note of the couple of decisions rendered in the recent past by the Hon'ble Supreme Court of India and also by the various High Courts. The Hon'ble Supreme Court recently in Criminal Appeal No.1489/2012 in the case of **Ramgopal & Anr. Vs. State of Madhya Pradesh** {2021 SCC Online 834} decided on 29.09.2021, has in paragraph 12, 13 & 19 held as under:-

12. The High Court, therefore, having regard to the nature of the offence and the fact that parties have amicably settled their dispute



and the victim has willingly consented to the nullification of criminal proceedings, can quash such proceedings in exercise of its inherent powers under [Section 482](#) Cr.P.C., even if the offences are non compoundable. The High Court can indubitably evaluate the consequential effects of the offence beyond the body of an individual and thereafter adopt a pragmatic approach, to ensure that the felony, even if goes unpunished, does not tinker with or paralyze the very object of the administration of criminal justice system.

13. It appears to us that criminal proceedings involving non-heinous offences or where the offences are predominantly of a private nature, can be annulled irrespective of the fact that trial has already been concluded or appeal stands dismissed against conviction. Handing out punishment is not the sole form of delivering justice. Societal method of applying laws evenly is always subject to lawful exceptions. It goes without saying, that the cases where compromise is struck post conviction, the High Court ought to exercise such discretion with rectitude, keeping in view the circumstances surrounding the incident, the fashion in which the compromise has been arrived at, and with due regard to the nature and seriousness of the offence, besides the conduct of the accused, before and after the incidence. **The touchstone for exercising the extraordinary power under [Section 482](#) Cr.P.C. would be to secure the ends of justice. There can be no hard and fast line constricting the power of the High Court to do substantial justice. A restrictive construction of inherent powers under [Section 482](#) Cr.P.C. may lead to rigid or specious justice, which in the given facts and circumstances of a case, may rather lead to grave injustice. On the other hand, in cases where heinous offences have been proved against perpetrators, no such benefit ought to be extended, as cautiously observed by this Court in [Narinder Singh & Ors. vs. State of Punjab & Ors.](#)³ and [Laxmi Narayan \(Supra\)](#).**

19. We thus sumup and hold that as opposed to [Section 320](#) Cr.P.C. where the Court is squarely guided by the compromise between the parties in respect of offences 'compoundable' within the statutory framework, the extraordinary power enjoined upon a High Court under [Section 482](#) Cr.P.C. or vested in this Court under [Article 142](#) of the Constitution, can be invoked beyond the metes and bounds of [Section 320](#) Cr.P.C. **Nonetheless, we reiterate that such powers of wide amplitude ought to be exercised carefully in the context of quashing criminal proceedings, bearing in mind: (i) Nature and effect of the offence on the conscious of the society; (ii) Seriousness of the injury, if any; (iii) Voluntary nature of compromise between the accused and the victim; & (iv) Conduct of the accused persons, prior to and after the occurrence of the purported offence and/or other relevant considerations.**

The principles of law settled by the Hon'ble Supreme Court in the said Judgment is that in a given case the High Court also has the inherent powers



conferred upon it under Section 482 of CrPC to pass orders to meet ends of justice.

26. The Hon'ble Supreme Court in the case of "**K Dhandapani Vs. The State through the Inspector of Police**" {2022 LiveLaw(SC) 477}, that is case where the appellant therein was convicted for the offence punishable under the provision of the POCSO Act and was sentenced to undergo R.I. for a period of 10 years, has allowed the appeal and has acquitted the accused person setting aside the judgment of conviction, primarily, for the reason that the family life of the accused should not be left to be disturbed any further.

27. In the instant case also, the parties have resolved all their grievances and the disputes between them. They have decided to part ways in life for good. The complainant has received the monetary benefits that was assured by the parties in-terms-of the settlement arrived at. The complainant has also assured of rendering full cooperation for disposal of all the pending criminal cases and litigation between the parties including the Criminal Appeals before this High Court.

28. Recently, again the High Court of Karnataka, taking into consideration the aforesaid decision of the Hon'ble Supreme Court, in Criminal Petition No. 7649/2022 decided on 16.08.2022 in the matter of **Smt. Lakshmibai Vs. The State of Karnataka & Anr.**, reported in 2022 LiveLaw Karnataka 336, has held as under:-

"The Apex Court, right from the year 2003 in the case of **B.S.JOSHI V. STATE OF HARYANA** reported in **(2003)4 SCC 675** which is subsequently followed by the Apex Court in the case of **NIKHIL MERCHANT V. CENTRAL BUREAU OF INVESTIGATION** reported in **(2008)9 SCC 677** and in the case of **MANOJ SHARMA V. STATE AND OTHERS** reported in **(2008)16 SCC 1** has considered the fact that post conviction, a settlement can be accepted and proceedings can be obliterated by the Court, hearing a petition under Section 482 of the Cr.P.C.



In the light of the judgments so rendered by the Apex Court which all concern the issue whether the matter could be settled or compromised between the parties post conviction wherein the Apex Court has permitted such compromise to be recorded post conviction by a Court exercising jurisdiction under [Section 482](#) of the Cr.P.C. and quashed the proceedings and also in view of the facts obtaining in the case at hand, I deem it appropriate to accept the compromise so filed and set aside the order of conviction passed against the petitioner.”

29. Again, in the recent past, the High Court of Delhi had an occasion to dealing with a similar case in the matter "**Arshad Ahmad and Ors. Vs. State NCT of Delhi and Anr.**, {2022 SCC Online Del 1736}, decided on 02.06.2022. Though the said case was at pre-conviction stage but the offence charged was that of under Section 376, 377 and 498-A of IPC against the father-in-law. The High Court of Delhi in the Paragraph 7,9, 10 & 13 of the said Judgment has held as under:-

7. In the present case, which is a matrimonial dispute, it is noted that charge-sheet has been filed under [Section 376](#) of the Indian Penal Code, 1860, however, in her statement under [Section 164](#) Cr.P.C., the complainant has stated that only an attempt to rape had been made by her father-in-law. Charges have not yet been framed by the learned Trial Court.

9. Though any case coming to an end is a welcome step as it decreases the pendency of the Courts, more so, in matrimonial offences quashing is welcome as it shows that parties have decided to put an end to the lis as well as to the misery they undergo due to a matrimonial case pending between them. The fact that now-a-days [Sections 376](#) and [354](#) of IPC are being used along with [Section 498-A](#) IPC, which later on are compromised and are brought to this Court for quashing, needs to be curbed. This Court appreciates the stand taken by the complainant and her wish to move on in life as her future depends on settlement of this matrimonial dispute and quashing of this FIR. In case the FIR is not quashed in this case, the entire settlement between the parties will come to an end. The complainant is a young lady who is looking for a bright future for herself, which depends on quashing of the present FIR pursuant to a settlement which she states before this Court, she has entered out of her free will and without coercion, pressure or threat. She also states that it was a family dispute and she no more wants the same to be tried in any Court of Law in any form.

10. Though, ordinarily, cases under [Section 376](#) IPC should not be quashed and should be taken as a crime against society at large, however, in the peculiar circumstances of this matrimonial dispute case where the complainant states that her future depends on quashing of the FIR and states that rape was not committed upon her, it will be in interest of justice that if the FIR in its entirety is quashed.

13. Considering that it is a matrimonial dispute and quashing of this FIR will ensure a better future for all the parties, I am inclined to quash the FIR. There is no legal impediment in quashing the FIR in question.



30. Similarly, Aurangabad Bench of the High Court of Bombay in Criminal Application No. 0382 of 2018 that was decided on 26.02.2018 where the accused persons were convicted for the offence punishable under Section 323, 447 and 354 of IPC, primarily, relying upon the Supreme Court's judgment in the case of "**Gian Singh Vs. State of Punjab and Anr.**" {(2012) 10 SCC 303}, in paragraph 12, has held as under:-

"12. Therefore, after applying the parameters, it is to be noted that the parties in the present case have come with a case that they want to maintain good and cordial relations in future. Such thought is necessary for the society and, therefore, we find this to be a fit case where inherent powers of this Court under Section 482 of the Cr.P.C. are required to be invoked. This is a fit case where the present applicants need not be asked to prosecute their appeal against conviction.

31. In Cr.A. No.660/2022, the two Appellants are related as husband and mother-in-law of the Complainant and, in Cr.A. No.746/22, the Appellant is the father-in-law of the Complainant. The respective Appellants and the Complainant have now come to an amicable settlement and they intend to resolve the dispute once and for all. With an intention of laying to rest the *lis*, i.e. the dispute between the parties, for all times to come, they have also jointly moved the aforesaid Applications seeking permission to compound the case.

32. In view of the settlement/compromise arrived at between the parties and also taking note of the aforesaid legal position as it stands settled by the Hon'ble Supreme Court as also by the various High Courts, this Court is of the firm view that the present is also a fit case where the Applications No. 2, 3 & 4 can be allowed invoking the inherent powers which are conferred on this court under Section 482 of the CrPC and the same are accordingly allowed. Consequently, Cr.A. No.746/22 also deserves to be and is accordingly allowed.



33. As a consequence, in the light of the settlement/compromise arrived at between the parties, the Criminal Appeals, i.e. Cr.A. No.660/2022 and Cr.A. No.746/2022, both stand allowed. The Appellants therein stand acquitted of all the charges levelled against them.

Sd/-
(P. Sam Koshy)
Judge

Jyoti

