

**IN THE HIGH COURT OF MADHYA
PRADESH
AT INDORE
BEFORE**

HON'BLE SHRI JUSTICE PREM NARAYAN SINGH

ON THE 21st OF AUGUST, 2023

CRIMINAL REVISION No. 1892 of 2021

BETWEEN:-

**MAHENDRA S/O DHYANSINGH,
AGED ABOUT 43 YEARS,
OCCUPATION: AGRICULTURIST
VILALGE BAVI, TEHSIL BADWAH
(MADHYA PRADESH)**

.....PETITIONER

(BY SHRI HARISH TRIPATHI, ADVOCATE)

AND

**THE STATE OF MADHYA PRADESH
STATION HOUSE OFFICER
THROUGH P.S. BALWADA (MADHYA
PRADESH)**

.....RESPONDENT

(BY MS. NISHA JAISWAL, PANEL LAWYER)

**(BY SHRI AKHILESH KUMAR CHOUDHARY, LEARNED COUNSEL
FOR THE COMPLAINANT)**

*This revision coming on for orders this day, the court
passed the following:*

ORDER

1. Present revision petition has been filed on behalf of the petitioner under Section 397 r/w 401 of Cr.P.C being aggrieved

by the order dated 08.01.2021 passed in Criminal Appeal No. 100282/2015 by the learned Third Additional Sessions Judge, Mandleshwar whereby the order of conviction and sentence, passed by the learned Judicial Magistrate First Class, Badwah, West Nimad in Criminal Case No. 321/2007, vide order dated 28.09.2015, wherein the petitioner has been convicted for the offence under Sections 498-A and 325 of IPC and sentenced to undergo 1-1 years R.I. with fine of Rs.500/- each of the sentence and with default stipulations, has been affirmed.

2. Facts leading to filing of this revision petition, are that the complainant lodged a report bearing Crime No. 84/20017 at Police Station-Balwada, District-Khargone to the effect that the marriage between petitioner and complainant was solemnized in the year 2002 and after one year of their marriage, the petitioner started cruelty upon the complainant and on 18.06.2017, the petitioner assaulted the complainant on her mouth by his leg. The said incident was informed to her mother-in-law and father-in-law by the complainant. After completion of investigation, charge-sheet has been filed against the petitioner.

3. The trial Court after framing of charges and recording the evidence, convicted the accused person for offence under Sections 498-A and 325 of IPC, 1860, sentenced to undergo 1 year R.I with a fine of Rs.500/- each and usual default stipulations. Being aggrieved by the aforesaid judgment, accused person filed Cr.A. No.100282/2015 before the Court of Sessions, which was dismissed by affirming the order passed by the learned Judicial Magistrate, First Class, Badwah, West Nimad. Hence,

this revision has been filed.

4. Learned counsel for the parties have submitted that during the pendency of this revision, the complainant and petitioner have jointly filed an I.A. No. 9614/2023, application under Sections 320 and 482 of Cr.P.C. alongwith an affidavit and I.A. No. 9615/2023, under Sections 320(2) and 482 of Cr.P.C. stating that the dispute between them has been resolved and they have entered into compromise with no intention to pursue the matter further. In compliance of the order dated 14.07.2023 passed by this Court, the factum of compromise has been verified by the Principal Registrar of this Court and has submitted a report on 02.08.2023 that both the parties have arrived at compromise voluntarily without any threat, inducement and coercion. The offence under Section 498A of IPC is not compoundable and Lalitabai is the injured person. Therefore, the aforesaid compromise is accepted and on virtue of this compromise, I.A. Nos. I.A. Nos. 9614/2023 and 9615/2023 stands allowed to the extent of discharging the petitioner from the charges under Section 325 of I.P.C.

5. Before going into the merits of the case, in order to appreciate the findings of the Courts below by which the petitioner has been convicted and sentenced for the aforesaid offence, this Court has been requested by the learned counsel for the parties to record the compromise arrived at by the parties concerned and set aside conviction and sentence based on compromise. It is, therefore, necessary for this Court to consider as to whether after conviction and sentence of an accused person,

this Court by exercising its jurisdiction under Section 397, 401 and Section 482 of 'the Code' can compound the offence and set aside the conviction and sentence more particularly where the offence involved is non-compoundable in nature.

6. On this aspect, the Hon'ble apex Court in the case of *Parbatbhai Aahir @ Parbatbhai Bhimsinhbhai Karmur and Ors vs. State of Gujarat* reported in [(2017)9 SCC 641], after considering all the earlier judgments summarized the principles that need to be kept in the mind of the High Courts while considering a plea for quashing F.I.R/criminal proceedings under Section 482 of 'the Code' on the ground of settlement between the parties, issued certain guidelines. These guidelines clearly reiterates inherent power of the High Court under Section 482 of 'the Code' to prevent the abuse of the process of any Court or to secure the ends of justice and also reiterates that the power to quash under Section 482 of 'the Code' is attracted even if the offence is non-compoundable and that 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.

7. A careful reading of the judgment of *Parbatbhai Aahir (Supra)* and the earlier judgments that have been considered, clearly pointed out to the fact that the stage at which the power has to be exercised is at the stage of a F.I.R or final report or pending criminal proceedings. There is no indication from the judgment or earlier judgments relied upon in this judgment as to whether the power of compounding a non-compoundable offence can be done even in cases where criminal case has come to an end

and the order of conviction and sentence has already been passed.

8. In this regard, the following extracts of the judgment of Hon'ble the Apex Court rendered in the case of ***Ruchi Agrawal Vs. Amit Agrawal [(2005) 3 SCC 299]***, is worth referring here under :-

In view of the above said subsequent events and the conduct of the appellant, it would be an abuse of the process of the court if the criminal proceedings from which this appeal arises is allowed to continue. Therefore, we are of the considered opinion to do complete justice, we should while dismissing this appeal also quash proceedings arising from the Criminal Case No.Cr.No.224/2003 registered in Police Station, Bilaspur, (Distt. Rampur) filed under Sections 498A, 323 and 506 IPC and under Sections 3 and 4 of the Dowry Prohibition Act against the respondents herein. It is ordered accordingly. The appeal is disposed of.

9. On this aspect, the observation made by Hon'ble the Apex Court in the case of ***Rangappa Javoor Vs. State of Karnataka and Another [(2023) LawSuit (SC) 584]***, is also worth referring here under :-

5. The parties, i.e. the appellant - Rangappa Javoor and his wife/respondent no.2 - Geeta Javoor, thereafter, had interacted and have entered into a settlement agreement dated 02.04.2012. A decree of divorce by mutual consent was granted by the Court of

Principal Senior Civil Judge, Gadag vide judgment dated 10.04.2012. The parties have also agreed that FIR No. 9/2011 dated 17.02.2011, registered at Police Station Gadag Town, Gadag, Karnataka and the proceedings arising therefrom should be quashed.

8. It is apparent that the parties have resolved and settled their disputes. In the facts of the case, we do not feel that any useful purpose would be served by continuation of the prosecution. The appellant - Rangappa Javoor, who is an officer in the Border Security Force and as per the job requirement, has to serve in different parts of the country, would be put to harassment. This court has held that in cases of offences relating to matrimonial disputes, if the Court is satisfied that the parties have genuinely settled the disputes amicably, then for the purpose of securing ends of justice, criminal proceedings inter-se parties can be quashed by exercising the powers under Article 142 of the Constitution of India or even under Section 482 of Code of Criminal Procedure, 1973.

9. In view of the aforesaid position, we allow the present appeal and set aside the impugned order. Consequently, the criminal proceedings in charge sheet dated 17.02.2011 arising out of FIR No. 9/2011 dated 17.02.2011 under Sections 498A, 427, 504 and 506 of the Indian Penal Code, 1860, registered at Police Station Gadag Town, Gadag, Karnataka are

quashed.

10. In the case of *Manohar Singh.Vs. State of Madhya Pradesh and Another* reported in [(2014) 13 SCC 75], the Hon'ble Apex Court has specifically considered the issue as to whether a conviction can be quashed on the ground that the parties have compromised the matter in exercise of the inherent jurisdiction under Section 482 'the Code'. In this case the offence involved was under Section 498 (A) of IPC and Section 4 of the Dowry Prohibition Act. The Hon'ble Supreme Court has held in para 6 and 8 as follows :-

"06. Section 498-A 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 that 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 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). If the High Courts 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.

8. *In the instant case, the appellant is convicted under Section 498-A IPC and sentenced to undergo six months imprisonment. He is convicted under Section 4 of the Dowry Act and sentenced to undergo six months imprisonment. Substantive sentences are to run concurrently. Even though the appellant and Respondent 2 wife have arrived at a compromise, the order of conviction cannot be quashed on that ground because the offences involved are non-compoundable. However, in such a situation if the court feels that the parties have a real desire to bury the hatchet in the interest of peace, it can reduce the sentence of the accused to the sentence already undergone. Section 498-A IPC does not prescribe any minimum punishment. Section 4 of the Dowry Act prescribes minimum punishment of six months but proviso thereto states that the court may, for adequate or special reasons to be mentioned in the judgment, impose a sentence of imprisonment for a term which may be less than six months. Therefore, sentence of the appellant can be reduced to sentence already undergone by him.”*

11. In view of the aforesaid verdicts of Hon'ble the Apex Court and having considered the contentions made in joint applications filed under Sections 320 and 482 of Cr.P.C. by the complainant as well as petitioner, as the offence under Section 498-A of the Indian Penal Code is not compoundable under Section

320 of the Code of Criminal Procedure, 1973, it is not possible to pass the order of acquittal on the basis of compromise but, it is by now well settled that such a compromise can be taken into account for reduction of sentence, and therefore, to meet the ends of justice, the sentence of imprisonment awarded against the petitioner may be reduced to the period already undergone.

12. In view of the aforesaid principles laid down by Hon'ble Apex Court and by this Court taking into consideration that the incident had taken place in the year 2007 and further the petitioner has already undergone jail sentence of approximately eight months each and no fruitful purpose would be served in keeping the petitioner in jail even after the compromise between the parties, this Court is of the view that while maintaining the conviction under sections 498-A of IPC, the jail sentence under this offence is reduced to the period already undergone by affirming the fine amount.

13. The petitioner is already on bail, he be set at liberty forthwith if not required in jail in any other case.

14. The judgment of learned trial Court regarding seized property stands confirmed.

15. With the aforesaid, the present Criminal Revision petition is partly allowed and disposed off.

16. A copy of this order be sent to the trial Court concerned for necessary compliance.

17. With the aforesaid, the present appeal stands disposed off.

Certified copy, as per rules.

(PREM NARAYAN SINGH)

JUDGE

vindesh