

**IN THE HIGH COURT OF HIMACHAL PRADESH,  
SHIMLA**

**Cr. MMO No. 176 of 2009.**

**Decided on: 26<sup>th</sup> February, 2010.**

*Ram Krishan and others* ...*Petitioners.*

## Versus

*State of HP and other ... Respondents.*

Coram

**Hon'ble Mr. Justice Surinder Singh, J.**

## Whether approved for reporting<sup>1</sup>?

**For the petitioners : Mr. Baldev Singh, Advocate.**

**For respondent No.1 : Mr. J.S. Rana, Assistant Advocate General.**

**For respondent No.2 : Mr. Deepak Kaushall, Advocate.**

**SURINDER SINGH, J (Oral).**

Petitioners No.1 and 2 are parents-in-law and petitioner No.3 is the brother-in-law of respondent No.2 Anju Bala. She is married to Vijay Kumar son of Ram Kishan, petitioner No.1, who is serving in the Armed forces. Anju Bala aforesaid, lodged FIR No.196 of 2007 on 13<sup>th</sup> September, 2007 alleging molestation by respondent No.3 and also illegal restraint, beatings and inter-alia allegations of cruelty by others, punishable under Sections 354, 342, 323, 324, 406, 498-A read with Section 34 of the Indian Penal Code, in Police Station, Haroli, District Una. The matter was investigated and challan was presented in the Court of learned Judicial Magistrate 1<sup>st</sup> Class, Court No.II, Una for their trial.

When the matter was pending investigation, on 28<sup>th</sup> January, 2008, the parties arrived at a compromise and

Whether reporters of the Local papers are allowed to see the judgment?

respondent No.2 expressed her intention not to continue with the case, but the offence under Section 498-A IPC being non-compoundable.

The police had put up the challan in the Court. Now, the matter is pending for evidence in the trial Court, but in the meanwhile the instant petition has been moved by the accused-petitioners under Section 482 of the Code of Criminal Procedure for quashing the proceedings in this Court on the ground that the matter stands already compounded *inter-se* the parties, respondent Anju Bala is happily residing in the family and the continuance of the case would deteriorate her marital relation.

Notice of this petition was issued to the respondents. Smt. Anju Bala put her appearance on 23<sup>rd</sup> February, 2010, filed her reply and admitted the above position. She further submitted that she has absolutely no objection in case proceedings are quashed. The State has also filed reply, but took up the plea that the offence is non-compoundable, therefore, the compromise *inter-se* the parties will have no effect on the pendency of the proceedings.

Learned Counsel for the petitioners cited a judgment of the Supreme Court, **B.S. Joshi and others v. State of Haryana and Another**, (2003) 4 SCC 675, whereby in such a case, it was held that if for the purpose of securing the ends of justice quashing of FIR becomes necessary, Section 320 of the Code of Criminal Procedure would not be a bar to the exercise of powers of quashing. It is, however, a different matter depending upon the facts and circumstances of each case whether to exercise or not to exercise such a power. Thus the High Court in exercise of its inherent powers can quash criminal proceedings or FIR or

complaint and Section 320 of the Code of Criminal Procedure does not limit or affect the powers under Section 482 of the Code of Criminal Procedure. Paras 14 and 15 of the above judgment read thus:

“14. There is no doubt that the object of introducing Chapter XX-A containing Section 498-A in the Indian Penal Code was to prevent torture to a woman by her husband or by relatives of her husband. Section 498-A 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 counterproductive and would act against the 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 XX-A of the Indian Penal Code.

15. In view of the above discussion, we hold that the High Court in exercise of its inherent powers can quash criminal proceedings or FIR or complaint and Section 320 of the Code does not limit or affect the powers under Section 482 of the Code.”

In the case in hand, the accused-petitioners did not obtain any permission to compound the offence and they have approached this Court for quashing FIR No.196 of 2007, registered at Police Station, Haroli (Una).

**B.S. Joshi's** case (supra) was also followed by the Apex Court in **Manoj Sharma v. State and others** JT 2008(11) SC 674 and the Apex Court took the same view.

Taking a cue from the above judgments of the Apex Court, this Court in exercise of the powers vested in it under

Section 482 of the Code of Criminal Procedure, finds it a fit case to grant the relief sought, is in the interest of respondent-wife, so that, no abrasion is left in her matrimonial life as she has permanently settled peacefully with her husband. Therefore, in my opinion, in the interest of the parties, the situation warrants the indulgence of this Court.

For the reasons aforesaid, petition is allowed and Case No.28-I-08/32-II-08, titled as State versus Ram Kishan and others based upon FIR No.196 of 2007 registered on 13<sup>th</sup> September, 2007 in Police Station, Haroli (Una), pending in the Court of learned Judicial Magistrate 1<sup>st</sup> Class, Court No.II, Una, is hereby quashed and set aside in the interest of justice. Consequently, the accused-petitioners stand acquitted. The matter stands disposed of.

Send down the record of the trial Court.

**Cr.M.Ps. No.842 and 843 of 2009.**

In view of disposal of the main petition, both these applications are also disposed of.

**February 26, 2010.**  
(rc)

**(Surinder Singh),J.**