

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 59 of 2015

Manoj Kumar Gupta @ Prashant Gupta S/o Late Shri Ramprasad
Gupta Aged About 27 Years R/o Village- Seoni Jaithari, P.S.-
Anuppur, Civil & Revenue Distt. - Anuppur (M.P.)

---- Petitioner

Versus

1. State Of Chhattisgarh Through The District Magistrate Durg, Distt.-
Durg C.G.
2. Firangi Gond S/o Shri Mehatar Gond Aged About 40 Years
Occupation- Agriculturist, R/o Village- Bundeli, Thana- Dhamdha,
Civil & Revenue Distt.- Durg, G.G

---- Respondents

For Petitioner – Shri Samir Singh, Advocate.
For Respondent No.2 – Shri Vijay Sahu, Advocate.
For Respondent/State – Shri Arvind Shukla, PL.

Hon'ble Shri Justice Goutam Bhaduri

Order

26/08/2015

1. This is a petition against the order dated 27/08/2014 passed by the court of Additional Sessions Judge, Durg in Criminal Revision No.0000203/2014 whereby the order passed by the JMFC, Durg in Criminal Case No. 0004878/2014 dated 12/08/2014 has been affirmed .
2. Brief facts of the case are that FIR was lodged by one Firangi Gond against the petitioner that the petitioner in order to implant fruit bearing trees, gardening as also fencing, tube well had taken amount of Rs.1,18,700/- from different persons of the village namely Dayaram, Bhagirathi, Bhudharo, Garud, Bahur Singh, Champa Lal, Shiv Kumar, Anita Bai, Bodhan Singh and Ishwar. Subsequently, on enquiry being made it came to the notice that no such scheme was existing of Central

Government in the name of Rashtriya Bagwani Mission, consequently, case was registered. While case was pending before the court below the complainants the persons from whom petitioner had taken money to the extent of Rs.1,18,700/- appeared and contended that they have compromised the case and do not want to continue with their complaint. On such ground application having been filed under Section 320 (2) of the Cr.P.C. same was dismissed predominantly on the ground that similar nature of case is pending against the petitioner. Same having been challenged before the revisional court, revisional court by the impugned order also affirmed the rejection of the compromise application, hence this petition.

3. Learned counsel for the petitioner submits that the basis on which application was dismissed was that similar nature of case was pending which was bearing Criminal Case No.282/2014. It is contended that such case was already compromised by the order dated 2/09/2014 which is placed on record. Consequently, very basis of such rejection to allow compromise is without any substance. He therefore submits that offence being compoundable in nature, considering the nature of the offence and the amount involved, petitioner's compounding of offence should have been allowed.

4. Learned counsel for the complainant also supported the submission and submitted that compromise has been arrived at without any fear and favour and entire amount has been settled in between the parties. Learned State counsel also submits that persons named Dayaram, Bhagirathi, Bhudharo, Garud, Bahur Singh, Champa Lal, Shiv Kumar, Anita Bai, Bodhan Singh and Ishwar have settled their claim and also do not dispute the fact that compromise in the other criminal case which was the basis of

rejection.

5. Having regard to the fact that very basis on which compromise application was dismissed was that another criminal case was pending was also compromised which is evident from the certified copy of the order dated 2/09/2014 the same is not disputed by the parties. In my opinion taking into nature of the offence and the fact that complainant also contended that without any fear and favour, the compromise has been affected, in the opinion of this court it will be a futile exercise if the criminal case is allowed to go in for evidence as ultimately no evidence would be available against the petitioner. It is also evident that evidence in the trial court has not been started. Consequently, since complainant themselves do not want to prosecute the same, order dated 27/08/2014 and 12/08/2014 is set aside. In a result, compromise application filed by the petitioner under Section 320 (2) of Cr.P.C. on 12/08/2014 is allowed and consequent thereto proceedings in Criminal Case No. 0004878/2014 pending before JMFC, Durg is quashed.

6. Consequently, Cr.M.P. stands allowed.

Sd/-
(Goutam Bhaduri)
JUDGE