

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No.305 of 2014**

Om Prakash Dixit, S/o. Late Shri Shiv Vilas Dixit, Aged About 70 Years, R/o. Gayatri Nagar, Raipur, Civil & Rev. Distt. Raipur (C.G.)

---- **Petitioner****Versus**

1. State Of Chhattisgarh, Through Secretary, Department Of Home, P.O. Mantralaya, P.S. Rakhi, New Raipur, Civil & Rev. Distt. Raipur (C.G.)
2. Superintendent Of Police, Raipur (C.G.) Through P.S. Gole Bazar, Raipur, Civil & Rev. Distt. Raipur (C.G.)
3. Smt. Vinita Hablani, W/o. Shri Jairam Das Hablani, R/o. House No.B 88-89 VIP State, Khamhardih, Raipur, Civil & Rev. Distt. Raipur (C.G.)

---- **Respondents**

For Petitioner	:	Mr. Sachin Singh Rajput, Advocate.
For State/Respondent No.1 & 2	:	Mr. Anil S. Pandey, Govt. Advocate
For Respondent No.3	:	Mr. Vikram Singh, Advocate

Hon'ble Shri Justice Goutam Bhaduri**Order On Board****18/12/2015**

1. This is a petition under Section 482 of Cr.P.C. whereby the petitioner has sought for quashing of the Criminal Case No.88/2013 pending before the Court of J.M.F.C., Raipur under Section 420, 467 & 468 readwith Section 34 of IPC.
2. The fact of the case, in brief, is that on a report made by the Respondent No.3, Vinita Hablani, that her land bearing Khasra No.392/16 ad-measuring 3013 sq.ft. situated at Telibandha, Patwari Halka No.113 was purchased by the present Petitioner Om Prakash Dixit by falsely impersonating one Vinita Hablani and sale deed was got executed in his favour. Subsequently, on 17.06.2007 when the Respondent No.3, original owner of the land, came to know that such sale deed has been executed, the report was made. On a

report, the matter was investigated and on investigation *prima facie* the police after enquiry found that offence is committed by Om Prakash Dixit and the falsely impersonating person Vinita Hablani, Sameer Chand and Prakash Sharma.

3. Learned counsel for the applicant submits that the applicant Om Prakash Dixit was the bonafide purchaser and the land was purchased for an amount of Rs.6,02,600/- on 21.02.2007. It is further contended that when the charge sheet has been filed, the applicant being the bonafide purchaser contacted the original owner Vinita Hablani and explained the fact that he has paid the amount and consequent thereto to show the bonafide again paid the sale consideration to Vinita Hablani whereby the petitioner was infact was required to pay double the sale consideration as he himself was cheated.
4. The police after investigation of the case filed the charge sheet against the present applicant Om Prakash Dixit and it came to a conclusion that no offence was found to be committed by them and the person who personified Vinita Hablani could not be placed alongwith other persons namely Sameer Chand and Prakash Sharma and consequently the proceeding under Section 173(8) of Cr.P.C. is kept pending. Consequently, the charge sheet was filed only against Om Prakash Dixit under Section 420, 467, 468 read with Section 34 of IPC.
5. Before this Court the Respondents after notice filed its reply and it is categorically contended that the complainant has entered into a compromise deed and has received an amount of Rs.6,00,000/- further and consequently the agreement was executed.
6. Learned counsel appearing on behalf of the Respondent No.3 also confirms the fact that she has received another sum of Rs.6,00,000/- from the petitioner.

7. Perusal of the reply also shows that the reply is supported by an affidavit and copy of the compromise deed. Consequently, it can be inferred that the matter has been compromised with the Petitioner Om Prakash Dixit and the Complainant/ Respondent No.3, Vinita Hablani.
8. Learned counsel for the Petitioner and Respondent No.3 therefore submits that the compromise having been arrived, the criminal case against the Petitioner Om Prakash Dixit be quashed.
9. The Supreme Court in case of ***Gian Singh Vs. State of Punjab (2012) 10 SCC 303 : 2012 Cri.L.J 4934*** laid down guidelines for quashing of the non-compoundable offences in the event of compromise being entered into between the parties. Para 49, 50, 53 & 54 are relevant here and quoted below:

“49. [Section 482](#) of the Code, as its very language suggests, saves the inherent power of the High Court which it has by virtue of it being a superior court to prevent abuse of the process of any court or otherwise to secure the ends of justice. It begins with the words, ‘nothing in this Code’ which means that the provision is an overriding provision. These words leave no manner of doubt that none of the provisions [of the Code](#) limits or restricts the inherent power. The guideline for exercise of such power is provided in [Section 482](#) itself i.e., to prevent abuse of the process of any court or otherwise to secure the ends of justice. As has been repeatedly stated that [Section 482](#) confers no new powers on High Court; it merely safeguards existing inherent powers possessed by High Court necessary to prevent abuse of the process of any Court or to secure the ends of justice. It is equally well settled that the power is not to be resorted to if there is specific provision in [the Code](#) for the redress of the grievance of an aggrieved party. It should be exercised very sparingly and it should not be exercised as against the express bar of law engrafted in any other provision [of the Code](#).”

50. In different situations, the inherent power may be exercised in different ways to achieve its ultimate objective. Formation of opinion by the High Court before it exercises inherent power under [Section 482](#) on either of the twin objectives, (i) to prevent abuse of the process of any court or (ii) to secure the ends of justice, is a *sine qua non*.

53. Quashing of offence or criminal proceedings on the ground of settlement between an offender and victim is not the same thing as compounding of offence. They are different and not interchangeable. Strictly speaking, the power of compounding of offences given to a court under [Section 320](#) is materially different from the quashing of criminal proceedings by the High Court in exercise of its inherent jurisdiction. In compounding of offences, power of a criminal court is circumscribed by the provisions contained in [Section 320](#) and the court is guided solely and squarely thereby while, on the other hand, the formation of opinion by the High Court for quashing a criminal offence or criminal proceeding or criminal complaint is guided by the material on record as to whether the ends of justice would justify such exercise of power although the ultimate consequence may be acquittal or dismissal of indictment.

54. Where High Court quashes a criminal proceeding having regard to the fact that dispute between the offender and victim has been settled although offences are not compoundable, it does so as in its opinion, continuation of criminal proceedings will be an exercise in futility and justice in the case demands that the dispute between the parties is put to an end and peace is restored; securing the ends of justice being the ultimate guiding factor. No doubt, crimes are acts which have harmful effect on the public and consist in wrong doing that seriously endangers and threatens well-being of society and it is not safe to leave the crime-doer only because he and the victim have settled the dispute amicably or that the victim has been paid compensation, yet certain crimes have been made

compoundable in law, with or without permission of the Court. In respect of serious offences like murder, rape, dacoity, etc; or other offences of mental depravity under [IPC](#) or offences of moral turpitude under special statutes, like [Prevention of Corruption Act](#) or the offences committed by public servants while working in that capacity, the settlement between offender and victim can have no legal sanction at all. However, certain offences which overwhelmingly and predominantly bear civil flavour having arisen out of civil, mercantile, commercial, financial, partnership or such like transactions or the offences arising out of matrimony, particularly relating to dowry, etc. or the family dispute, where the wrong is basically to victim and the offender and victim have settled all disputes between them amicably, irrespective of the fact that such offences have not been made compoundable, the High Court may within the framework of its inherent power, quash the criminal proceeding or criminal complaint or F.I.R if it is satisfied that on the face of such settlement, there is hardly any likelihood of offender being convicted and by not quashing the criminal proceedings, justice shall be casualty and ends of justice shall be defeated. The above list is illustrative and not exhaustive. Each case will depend on its own facts and no hard and fast category can be prescribed.”

10. Reading of the above quoted paragraphs would show that Hon'ble Supreme Court has held that where certain offences which overwhelmingly and predominantly bear civil flavour having arisen out of civil, mercantile, commercial, financial, partnership or such like transactions where the wrong is basically to the victim and the offender and the victim have settled all the disputes *inter-se* amicably, then irrespective of the fact that such offences have not been made compoundable, the High Court may within the framework of its inherent powers, quash the criminal proceeding or criminal complaint or F.I.R., if it is satisfied that on the face of such settlement, there is hardly any likelihood of offender being convicted and by not quashing the

criminal proceedings, justice shall be casualty and ends of justice shall be defeated.

11. By application of the aforesaid principles to the instant case, since the Complainant/ Respondent No.3 has stated on oath by filing affidavit as also before this Court that the Complainant and Petitioner have amicably settled the dispute and considering that the dispute arises out of monetary transaction and is of civil nature, this Court is satisfied that there is hardly any likelihood of the offender being convicted in the teeth of submission made by the Complainant.
12. Therefore, considering the gravity of crime and nature of the dispute and since the Petitioner & Respondent No.3 have entered into compromise an the Complainant/ Respondent No.3 do not want to continue the criminal proceedings against the petitioner any longer, I deem it expedient to exercise the inherent power conferred under section 482 Cr.P.C. in the instant case. Accordingly, the proceeding of Criminal Case No.88/2013 (*State of C.G. v. Om Prakash Dixit*), registered for the offences punishable under Sections 420, 467 & 468 read with Section 34 of IPC pending in the Court of learned JMFC, Raipur which arises out of charge sheet filed by Police of Police Station Gole Bazar, Raipur, in Crime No.86/2007 against the present petitioner is quashed.
13. Consequently, this petition is allowed. The petitioner is acquitted of the charges.

Sd/-
(Goutam Bhaduri)
JUDGE