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HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No.1015 of 2015

1. Lokesh Sahu, S/o. P.R. Sahu, Aged About 22 Years.
2. Mantosh Parmanik @ Tasa, S/o. Sanat Parmanik, Aged About 32 Years.
3. Shekh Ashiq Hussain, S/o. Late S.A. Hussain, Aged About 32 Years.
4. Sajjy Philip, S/o. Thomas Philip, Aged About 15 Years.

All are R/o. Sethi Nagar, Raigarh, Police Station - Chakradhar Nagar, Tahsil & District Raigarh - Chhattisgarh

---- Applicants

Versus

1. State Of Chhattisgarh, Through: The Police Station, City Kotwali, Raigarh, Tahsil & District Raigarh, Chhattisgarh
2. Ankit Gorakh, S/o. Shambhu Nath Gorakh, Aged About 23 Years.
3. Govind Sethi, S/o. Ganesh Sethi, Aged About 26 Years.

Both are R/o. Doraga Para, Raigarh, Police Station - City Kotwali, Tahsil & District Raigarh - Chhattisgarh

---- Respondents

AND

CRMP No.1020 of 2015

1. Ankit Gorakh, S/o. Shambhunath Gorakh, Aged About 22 Years, R/o. Gujratipara, Police Station City Kotwali, Raigarh, Tahsil & District Raigarh, Chhattisgarh
2. Ankur Gorakh, S/o. Shambhunath Gorakh, Aged About 22 Years, R/o. Gujratipara, Police Station City Kotwali, Raigarh, Tahsil & District Raigarh, Chhattisgarh
3. Minor Karan Agrawal, S/o. Sanjay Chaudhary, Aged About 17 ½ Years, Represented through Father Sanjay Chaudhary, S/o. Jagdish Prasad Chaudhary, Aged About 49 Years, R/o. Savitri Nagar, Mitthumuda, Tahsil & District Raigarh, Chhattisgarh
4. Bhola @ Raju Pratap, S/o. Gulab Singh Thakur, Aged About 22 Years, R/o. Railway Bungwlopara, Jairam Colony, Raigarh, Tahsil & District Raigarh, Chhattisgarh

5. Kapil Solanki, S/o. Jairam Solanki, Aged About 26 Years, R/o. Krishnaganj, Near Vijay Sonmandir, Sagar (M.P.) At Present R/o. Gujratipara, House Of Nanki Sonkar, Raigarh, Chhattisgarh

---- Applicants

Versus

1. State Of Chhattisgarh, Through: The Police Station, City Kotwali, Raigarh, Tahsil & District Raigarh, Chhattisgarh
2. Smt. Jassy Philip, W/o. Thomas Philip, Aged About 47 Years, R/o. Lachan Nagar, MIG 25, Police Station Chakradharnagar, Tahsil & District Raigarh, Chhattisgarh
3. Sajji Philips, S/o. Thomas Philips, Aged About 15 Years, Represented through Jassi Philip Mother, W/o. Thomas Philip, R/o. Lachan Nagar, MIG 25, Police Station Chakradharnagar, Tahsil & District Raigarh, Chhattisgarh

---- Respondents

For Applicants	:	Mr. R.S.Marhas & Mr. Ashish Gupta, Advocates.
For Respondent	:	Mr. Anupam Dubey, Dy. Govt. Advocate & Mr. O.P.Sahu, Govt. Advocate

Hon'ble Shri Justice Goutam Bhaduri

C A V ORDER

02/12/2015

1. The two petitions have filed to quash the FIR. Both the petition arises out of the same chain of incident. The applicants in Cr.M.P.No.1015 of 2015 are the accused in Crime No.424/2015 registered at Police Station- City Kotwali, Raigarh, whereas the applicants in Cr.M.P. No.1020 of 2015 are the accused in Crime No.426/2015 which is also registered at Police Station- City Kotwali, Raigarh. Since both the petition arises out of a same chain of transaction of crime and the relief is also claimed for quashing of the FIR as against each other with a prayer that the crimes having been compounded; consequently, the same are being decided together as common incident and facts are involved.

2. The brief facts, in a nutshell, are that on 26.05.2015 at 11 A.M. one Govind Sethi went to Petrol Pump named Mehta Petrol Pump to get petrol for his Bike, he saw that Ankit, Ankur, Kapil & Golu were standing in the Petrol Pump. At the same time, Lokesh Sahu, Tasa Parmanik, Ashiq Hussain, Sajjy Philip came along with Club, Hockey Stick, Bhujali & Sword and abused Ankit Gorakh and fighting started in an open at Petrol Pump whereby Ankit Gorakh became unconscious and he was rescued by one Kapil and was admitted to the Hospital and on the complaint of Govind Sethi, the crime No.424/2015 was registered. Subsequent to such fighting, Ankit Gorakh and Karan Agrawal alongwith others kidnapped Sajjy Philip who was a party to the initial quarrel and kidnapped him on the same day on 26.05.2015 at about 9:30 P.M. The said kidnapping was reported by mother of Sajjy Philip to the Police, therefore, the crime was registered bearing No.426/2015.
3. In the instant two petitions both the parties have prayed to quash the FIR registered against each other on the ground that the matter has been compromised. Copy of the FIR has been filed in Cr.M.P.No.1015 of 2015, which purports that on the report of Govind Sethi, a case was registered against Lokesh Sahu, Tasa Patnayak @ Mantosh, Ashiq Hussain and Sajjy Philip. Except the FIR, no document has been placed in respect of the crime. Reading of the FIR would show that the quarrel broke out at Petrol Pump and the applicants i.e. Lokesh Sahu, Mantosh Parmanik @ Tasa, Shekh Ashiq Hussain & Sajjy Philip came on a motorcycle and they were holding Club, Hockey Stick & Sword and Ankit was attacked with filthy language and Tasa Parmanik hit Ankit by way of Club on his head and Lokesh by Sword and Ankit became unconscious and the informant of the FIR brought Ankit to the Hospital in the unconscious state.
4. Likewise the Cr.M.P.No. 1020 of 2015 also contains a copy of the FIR, which purports that a report was made by Jassy Philip, mother of Sajjy Philip with an allegation that Karan Agrawal and their friends have kidnapped Sajjy

Philip. The FIR further purports that while searching her son when she reached Police Station, at that time, Sajjy Philip was rescued and came in a Police Patrolling Car and stated that Karan Agrawal, Yatharth Sadangi, Ankit Gorakh, Ankur Gorath and Anurag Singh and others took him away near Budhimai Mandir and was assaulted by way of stone and knife and further tried to drown him in pond forcefully and subsequently his Chain, Mobile, Ring and Braslet were missing. On such allegations, the FIR was lodged. Reading of the FIR would show that initially the incident happened in the morning whereby Ankit was assaulted and as a counterblast to it Sajjy Philip was kidnapped and assaulted. The inception of the dispute was at 11 O'clock as per the FIR. No document is placed except the copy of FIR with respect to the crime.

5. In both the petition two compromise/agreement were placed on record wherein first party shown as Ankit Gorakh & Govind Shethi and second party shown as Sajjy Philip & Jassy Philip and in another compromise petition, first party was shown as Sajjy Philip & Jassy Philip and second party was shown as Ankit Gorakh & Govind Sethi wherein it is stated that the crime No.422/2015 is registered against Lokesh Sahu & Others others under Section 307, 294, 506, 323 read with Section 34 of IPC and the other crime is shown to have been registered against Ankit Gorakh & Others under Section 365, 294, 506, 323 read with Section 34 of IPC in crime No.426/2015. Predominantly, in the compromise/ agreement it is stated that both the parties have agreed to settle the dispute in between them and therefore the FIR be quashed.
6. The inspection of the dispute would show that it was made during open day light in the public in a Petrol Pump when Lokesh Sahu & Others assaulted Ankit by way of Hockey Stick, Club & Sword and by such act Ankit became unconscious and as a counter to it, Sajjy Philip was kidnapped and assaulted and further valuables were also looted. Therefore, if the crime scene is

visualized with respect to the place and time, this cannot be denied that it will have a harmful effect on the public and consist of wrongdoing that seriously endangers and threatens the well-being of the society. If the crime seen is further visualized with an analysis of the FIR and contents of compromise agreement, it would show that the nature and gravity of crime will have a necessarily social impact. The criminal law is designed as a mechanism for achieving social control and its purpose is the regulation of conduct and achieve activities within the society. Therefore, considering the way the crime is committed, the compromise in house between the victim inter-se and the complainant and settlement of the dispute itself by the individual cannot be stated to be a settlement of dispute between individual rather it is against the society at large.

7. If as a spectator of the crime, the crime scene is reconstructed then setting the parties at large with the settlement in between will lead to have a negative impact on the society. Consequently, taking a lenient view on a serious offence like in the nature will leave a wrong impression about the criminal justice system and will encourage further criminal acts, which will endanger the peaceful coexistence and welfare of the society at large.
8. Their lordship of Supreme Court recently in a case of ***State of Madhya Pradesh v. Deepak & Others***, reported in **(2014) 10 SCC 285** has considered all the aspects and have analyzed the law laid down in case of ***Narinder Singh & Others v. State of Punjab & Another*** reported in **(2014) 6 SCC 466**. The Court has observed that the power to compound is to be exercised sparingly and with caution. Further, it has laid down that when the parties have reached the settlement and pray for quashing of criminal proceedings, the guiding factor in such cases would be to secure ends of justice or to prevent abuse of the process of any Court.
9. While applying such principle, taking the totality of the way the offence is being committed, in the opinion of this Court, ends of justice would not

subserve in allowing the compromise happened and quash the FIR. It will have a negative impact on the society on a common man and will lead to impress that after committing offence in the broad-day light in the month of May, the alleged accused are set at large on their own choice with a short period of time within months. Consequently, I am not inclined to allow both the petition and quash the FIR at the threshold.

10. In the result, both the petition are dismissed having no merit at the admission stage itself.

Sd/-
(Goutam Bhaduri)
JUDGE

Ashok

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CRMP No.1015 of 2015

Lokesh Sahu & Others

---- Applicants

Versus

State Of Chhattisgarh & Others

---- Respondents

AND

CRMP No.1020 of 2015

Ankit Gorakh & Others

---- Applicants

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State Of Chhattisgarh & Others.

---- Respondents

Post for pronouncement of Order on day of December, 2015.

J U D G E
/12/2015