

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CR.M.P. No. 177 of 2015

1. Ishwar Dongre, S/o. Devanand Dongre, Aged About 25 Years, R/O. In Front Of Civil Lines Hospital, Deobhog, Police Station Deobhog, Civil District Raipur and Rev. District Gariyaband (C.G.)

---- Petitioner

Versus

1. State Of Chhattisgarh, Through Police Station Deobhog, District Gariyaband (C.G.)
2. Kumari Priyanka Pradhan @ Pinki, D/o. Mukesh Pradhan, Aged About 21 Years, R/O. Pradhanpara, Deobhog, Police Station Deobhog, Civil District Raipur & Rev. District Gariyaband C.G.

---- Respondents

For Petitioner	:	Mr. Bhaskar Payashi, Advocate
For Respondent No.1/State	:	Ms. M.Asha, Panel Lawyer
For Respondent No.2	:	Mr. Varunendra Mishra, Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

01/10/2015

1. Challenge in this petition is to quash the criminal proceedings bearing Criminal Case No.149/2014, pending before the Court of Judicial Magistrate First Class, Deobhog under Section 354 D(1), 509 & 201 of I.P.C.
2. As per the facts, a written complaint was made by the complainant/respondent No.2, Ku. Priyanka Pradhan @ Pinki alleging that the petitioner has committed certain acts which are resulted in to registration of complaint under Section 354(D), 509 and 201 of I.P.C..

3. Learned counsel for the petitioner submits that due to some misunderstanding, a report was made, consequently, the complainant do not want to proceed with the case further. He further submits that the respondent No.2/complainant, Ku. Priyanka Pradhan also do not to proceed with the case and further would submit that though the allegations have been made about circulation of the photographs but nothing has been seized in the case diary so as to substantiate those allegations.
4. The respondent No.2, Ku. Priyanka Pradhan @ Pinki is present in the Court in person alongwith her mother, Smt. Padma Pradhan and father Kamlesh @ Mukesh Pradhan. They are identified by Mr. Varunendra Mishra, Advocate.
5. In this petition an application has been filed under Section 320 of the Cr.P.C., wherein it is contended that parties has amicably settled their dispute and on being query made by the State Counsel, it is stated that they have compromised the issue as due to misunderstanding, certain report was made which was found to be wrong subsequently.
6. The Supreme Court in case of ***Gian Singh Vs. State of Punjab and Another***, reported in ***(2012) 10 SCC 303*** while exercising the power under Section 482 has laid down the proposition that power to quash the proceeding under Section 482 is plenary in nature, which is not arrested by the provisions contained in Section 320 of Cr.P.C.
7. Perusal of the case file and the charge sheet shows that nothing incriminating articles have been seized about the circulation of the pictures. The parties before the Court, the complainant has unequivocally has stated that due to misunderstanding, the report was made but actually nothing has happened and no photograph was

circulated and father and mother of the complainant, who are the witnesses, supported the same contention on being asked.

8. In case of **Gian Singh (supra)**, the Hon'ble Supreme Court in para 57 & 58 has observed as under :-

“57. 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.

58. Where the High Court quashes a criminal proceeding having regard to the fact that the dispute between the offender and the victim has been settled although the 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 wrongdoing that seriously endangers and threatens the well-being of the 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 the 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 the Prevention of Corruption Act or the offences committed by public servants while working in that capacity, the settlement between the offender and the 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 the victim and the offender and the 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 FIR if it is satisfied that on the face of such settlement, there is hardly and likelihood of the 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.”

9. Taking in to the fact that victim alongwith mother and father has contended before the Court that nothing had happened and due to misunderstanding, the report was made. Considering the factual situation of this case and on the basis of the compromise between the offender and the victim and the possibility of conviction is remote and bleak and continuation of criminal case would put accused to great

oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case despite full and complete settlement and compromise with the victim. Otherwise also it is felt that it would be unfair or contrary to the interest of justice to continue with the criminal proceeding or continuation of the criminal proceeding would tantamount to abuse of process of law despite settlement and compromise between the victim and wrongdoer specially in the light of the statement made before the Court which is fortified by the examination by the State Counsel.

10. Therefore, in the opinion of this Court considering the fact, it is futile to exercise to continue with the criminal case in the teeth of the statements made by the victim and the mother and father before this Court.
11. Consequently, in view of the principles laid down by the Hon'ble Supreme Court and the fact that complainant, Ku. Priyanka Pradhan, herself, who is present in the Court do not want to continue with the criminal case and has settled the dispute it would be in the interest of justice to allow the petition and to quash the proceeding of criminal case pending before the Judicial Magistrate First Class, Deobhog.
12. Accordingly, the petition is allowed and the proceeding of Criminal Case No.149/2014, pending before the Judicial Magistrate First Class, Deobhog under Section 354 D(1), 509 & 201 of I.P.C. is hereby quashed. The petitioner is acquitted of the charges.

Sd/-
(Goutam Bhaduri)
Judge