

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPCR No. 67 of 2014

1. Smt.Shashi Tiwari, W/o Late Krishnayogi Tiwari, Aged About 80 Years R/o House Of Ramprasad Tiwari, In Front Of Girls School, Pandentola, Rewa, Ps Kotwali, Distt Rewa (M.P.)
2. S.K.Sharma S/o Lt Shivrup Sharma Aged About 55 Years Chief Engineer, Presently Posted As C.E. PWD, Bilaspur (C.G.) R/o F-36, Old Meena Bazar, PS Civil Lines, Distt Bilaspur (CG)

---- Petitioner

Versus

1. State Of Chhattisgarh Through S.H.O. PS Civil Lines, Bilaspur, District Bilaspur (C.G.) Civil & Revenue Distt Bilaspur (CG)
2. Sudhir Sharma (**Deleted**) S/o Late Shivrup Sharma Aged About 39 Years R/o Warehouse Road, Behind Civil Court, Near Vidhik Sahayata Kendra, ISMS, Coaching Institute, PS Civil Lines, Distt Bilaspur (C.G.)

2 . (a) Priyansh Sharma S/O Late Sudhir Sharma, R/o Warehouse Road, Behind Civil Court Near Vidhik Sahayata Kendra, ISMS Coaching Institute, Bilaspur, C.G.

2 . (b) Shilpa Sharma W/o Late Sudhir Sharma R/o Warehouse Road, Behind Civil Court Near Vidhik Sahayata Kendra, ISMS, Coaching Institute, Bilaspur, C.G.

---- Respondent

For Petitioners	Mr. Saurabh Dangi, Advocate
For Respondent/State	Mr. Kirti Rao, Panel Lawyer
For Respondent No.2	Mr. R.S. Marhas, Advocate

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

15/1/2016

Heard finally with the consent of learned counsel for the parties.

(2) This petition under Article 226 of the Constitution of India has been preferred for quashment of the criminal proceedings pending before the Court of CJM, Bilaspur in Criminal Complaint Case No.799/2013.

(3) Learned counsel for the parties have preferred a joint application for bringing the settlement on record for quashment of the criminal proceedings duly supported with affidavit and other documents. The complaint was filed by Sudhir Sharma alleging that the accused persons have forged a will dated 03.09.1991 purportedly executed by late Shri Shivrup Sharma knowing fully well that no such will was ever executed by the deceased. The jurisdictional Magistrate has taken cognizance of the matter and has issued process against the petitioner. The complainant along with Smt. Indu Sharma and Priyansh Sharma had also preferred Civil Suit No.54-A/15 for cancellation of the above said will and the sale deed dated 24.10.1996 executed by the complainant Smt. Indu Sharma in favour of one Lily Sharma. In the said suit, an application under Order 23 Rule 1 of CPC was preferred for withdrawal of the suit on the pleading that the complainants have treated the will to be a valid and genuine document. Based on the said application, the suit has been dismissed as withdrawn vide order 31.08.2015.

(4) Learned counsel for the parties would jointly submit that the civil dispute having already been withdrawn and the complainants having already accepted the will, there is no justification in continuing a criminal case, which was solely based on the allegation that the will is not genuine. They would jointly refer to the law laid down by the

Supreme Court in the matters of **Yogendra Yadav and others Vs. State of Jharkhand and another**, (2014) 9 SCC 653, **Gian Singh Vs. State of Punjab and another**, (2012) 10 SCC 303, **Jagdish Chanana and others Vs. State of Haryana and another**, (2008) 15 SCC 704 and **Narinder Singh and others Vs. State of Punjab and another**, (2014) 6 SCC 466, to submit that the facts of the case in hand do not disclose any offence against the society or an economic offence, wherein, quashing of the proceedings can be legitimately denied, therefore, in view of settlement, the criminal complaint deserves to be quashed.

(5) It appears the dispute between the parties was regarding the authenticity or genuineness of the WILL. There is no allegation of commission of any offence of serious nature affecting public peace or tranquility, but it appears entirely personal in nature. Therefore, in view of the law laid down by the Supreme Court in **Yogendra Yadav (Supra)**, **Gian Singh (Supra)**, **Jagdish Chanana (Supra)** and **Narinder Singh (Supra)**, the writ petition is allowed and the proceedings in Criminal Complaint Case No.799/2013 is quashed.

Sd/-

Judge

(Prashant Kumar Mishra)

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