

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 32 of 2016**

1. Likayat Miya, son of Amir Miya, aged about 55 years.

2. Najrul Ansari, son of Liyakat Miya, aged about 27 years

Both are resident of village Virajpur, Kedula Tal, PS Parmatad, District Jamtada (Jharkhand).

----Petitioners

Versus

State of Chhattisgarh through Station House Officer, Police Station, Baradwar, Civil and Revenue District Janjgir Champa (CG).

---- Respondent

For Petitioners	:	Shri Deepak Kumar Singh, Advocate.
For respondent/State	:	Shri Rajendra Tripathi, Panel Lawyer.

Hon'ble Shri Justice P. Sam Koshy

Order On Board

14/06/2016

1. The present petition under Section 482 Cr.P.C. has been filed seeking for quashment of the order dated 03.12.2015 whereby the court below has refused to compound the offence registered against the petitioners for the offence under Section 120-B IPC in respect of the fact that the substantive offence registered against the petitioners under Sections 419 and 420 IPC has been allowed to be compounded on 19.10.2015.
2. Originally the petitioners were proceeded with the offence under Sections 419,420 and 120-B IPC. Pending the trial, the parties had

entered into compromise and had moved an application under Section 320 (2) Cr.P.C. for compounding the said offences. The court below, vide order dated 19.10.2015 permitted the petitioners to compound the offence under Sections 419 and 420 IPC, but refused to compound the offence under Section 120-B IPC stating it to be beyond its competence. Against the said order dated 19.10.2015 passed by the Judicial Magistrate First Class, Sakti, the petitioners also preferred a revision petition before the court of First Additional Sessions Judge, Sakti, who also, in turn, vide impugned order dated 03.12.2015 has rejected the revision upholding the order dated 19.10.2015 and directed for proceedings of criminal case against the petitioners for the offence under Section 120-B IPC.

3. Learned counsel appearing for the petitioners assailing both the orders dated 19.10.2015 and 03.12.2015 submits that proceedings with criminal case against the petitioners is bad in law for the reason that since the main offence under Sections 419 and 420 IPC have already been permitted to be compounded and petitioners have been discharged from the said offence vide order dated 19.10.2015. The case under Section 120-B IPC independently cannot survive. If the main offence itself does not survive any longer, the question of proceeding with the petitioners for the other offence i.e. under Section 120-B IPC would not be proper, legal and justified.
4. Learned counsel appearing for the State after perusing the records fairly admits that he has no objection in case if the petition is allowed and the offence under Section 120-B IPC is dropped.

5. Considering the facts and circumstances of the case and also taking note of the fact that the petitioners having already been acquitted of the main charges under Sections 419 and 420 IPC and in the absence of any substantive offence against the present petitioners, proceedings against the petitioners only for the offence under Section 120-B IPC would be futile and improper.
6. Accordingly, the petition under Section 482 Cr.P.C. deserves to be and is hereby allowed. The orders dated 09.10.2015 and 03.12.2015 are quashed and the petitioners having being discharged from the offence under Sections 419 and 420 IPC would also have to be discharged from the offence under Section 120-B IPC. As a consequence, the petitioners stand discharged of the offence under Section 120-B IPC in criminal case No.594/2014 in the court of Judicial Magistrate First Class, Sakti, Distt. Janjgir Champa.
7. With the aforesaid observation, the petition is allowed.

Sd/-
(P. Sam Koshy)
JUDGE