

HIGH COURT OF CHHATTISGARH, BILASPUR**Cr.M.P. No. 305 of 2016**

Ganesh Kumar Murchu S/o Punaram Murchu, aged about 35 years,
R/o Rajiv Nagar, Raipur Naka, Durg, District Durg, CG

---- Petitioner**Versus**

1. State of Chhattisgarh through PS Durg, District Durg, CG
2. Parag Kumar Kurve S/o Satish Jaikrishna Kurve, aged about 40 years, R/o Subhash Nagar, Near Gokul Kirana Stores, Durg, CG

---- Respondents

For Petitioner	:	Shri P. R. Patankar, Advocate
For Respondent no.1	:	Shri Anupam Dubey, Dy. Govt. Advocate
For Respondent no.2	:	Shri Kunal Das, Advocate

Hon'ble Shri Justice P. Sam Koshy**Order On Board****12/07/2016**

The present petition has been preferred challenging the order dated 04.12.2015 passed by the JMFC, Durg in Criminal Case No. 451/2007. The present petitioner is an accused in the said criminal case for the offence under Section 379 of IPC.

2. Counsel for the petitioner submits that pending the case before the Court below the complainant i.e. respondent no.2 has settled the dispute with the petitioner/accused and he does not intend to prosecute the petitioner any further. He submits that the complainant also does not want the petitioner to face the trial any further as they have already compromised the matter.

3. Counsel for the petitioner further submits that the offence under Section 379 IPC is compoundable but the only difficulty is that at the time of incident it was not compoundable and the amendment for compounding the offence came into force w.e.f. 31.12.2009. Therefore, the Court below

refused to compound the offence and rejected the compromise application vide order dated 04.12.2015 leading to the filing of this petition.

4. Counsel for the petitioner submits that the complainant respondent no.2 himself who is present before this Court does not want to pursue the case any further and that there is no likelihood of the complainant making a deposition before the Court below against the petitioner and therefore the chances of conviction of the petitioner is very remote. He further submits that the complainant has already been handed over the stolen property and he has been enjoying the same for the last about 10 years. Thus, counsel for the petitioner prays for quashing of the impugned order as well as the Criminal Case pending before the JMFC, Durg.

5. Considering the total facts and circumstances of the case and keeping in view the law laid down by the Supreme Court in the Case of B. S. Joshi and Others Vs. State of Haryana and Another ¹, in the case of Gian Singh Vs. State of Punjab and Another² and also in the case of Narinder Singh and Others Vs. State of Punjab and Another³ in addition the offence under Section 379 IPC has since also made compoundable, this Court is of the opinion that no fruitful purpose would be served if the petitioner is put to face the trial particularly taking note of the fact that the complainant himself who is present before this Court does not want to prosecute the petitioner any further.

6. Accordingly, the instant Cr.M.P. is allowed. The impugned order is set aside. The criminal Proceeding initiated against the present petitioner in Criminal Case No. 451 of 2007 pending before the JMFC, Durg stands quashed. Consequently, the petitioner is acquitted of the charges levelled against him.

Bhola

Sd/-
(P. Sam Koshy)
JUDGE

1 2003 (4) SCC 675
2 2012 (10) SCC 303
3 2014 (6) SCC 466