

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRIMINAL MISC. PETITION NO. 168 OF 2015

1. Baisakhu Ram Lohar S/o Kondi Aged About 35 Years Village & Post - Bacharwar, P.S. & Tehsil-Pendra, Revenue & Civil District-Bilaspur C.G.
2. Shanker Lal S/o Suryanarayan Agrawal Aged About 55 Years R/o Agrasen Chowk Pendra, Post, P.S. & Tehsil-Pendra, Revenue & Civil District - Bilaspur C.G.
3. Vikas Kumar Agrawal S/o Shanker Lal Aged About 28 Years R/o Agrasen Chowk Pendra, (Wrongly Printed As Chetan Chowk Pendra, in the Cause Title Of The Lower Court Record And Challan) Pendra, Post, P.S. & Tehsil - Pendra, Revenue & Civil District Bilaspur C.G.

---- Applicants

Versus

1. State of Chhattisgarh through Secretary, Department Of Home Affairs, Mahanadi Bhawan, Naya Raipur, Revenue & Civil District - Raipur C.G.
2. Director General Of Police Police Headquarter, Raipur, Revenue & Civil District - Raipur C.G.
3. Superintendent Of Police Bilaspur Revenue & Civil District - Bilaspur C.G.
4. Station House Officer Police Station - Pendra, Revenue & Civil District - Bilaspur C.G.
5. Ram Prasad Rathore S/o Semlal Rathore Aged About 36 Years R/o Vill. & Post - Navapara Bacharwar, P.S. & Tehsil - Pendra, Revenue & Civil District - Bilaspur C.G.

... Non-applicants

For Applicants	:	Shri Sarfaraz Khan, Advocate.
For Non-applicant/State	:	Ms. M. Asha, Panel Lawyer.
For respondents No.5		Shri Purnendra Khicharia, Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

15/07/2016

1. The present petition under Section 482 CrPC has been preferred by the Applicants, who are the accused persons, seeking for quashment of

the criminal proceedings in Criminal Case No.424/2014 pending before the Judicial Magistrate First Class, Pendra Road, for the offence under Section 326 IPC.

2. Learned counsel for the Applicants submits that initially an FIR No.10/2012 was lodged by the respondent No.5/complainant at Police Station, Pendra Road for offence under Sections 324,326,294,506,323 and 34 IPC against the applicants. However, while framing of charge only offence under Sections 294,326, 506-B and 34 IPC was framed.

3. Pending the dispute between the parties, the parties have arrived at a compromise and the complainant did not intend to prosecute the Applicants any further and had moved an application under Section 320(2) CrPC for permission to compound the offence. On the basis of the said application, offence under Sections 294, 506-B and 34 IPC was ordered to be compounded, however, since the offence under Section 326 IPC was not compoundable, the court court ordered for proceedings against the applicants under Section 326 IPC, leading to filing of the present petition under Section 482 CrPC.

4. Today, the respondent No.5-complainant along with his counsel is present before the court and has made a categorical statement that they have entered into compromise with the applicants and have resolved the disputes amicably and as such he does not intend to further prosecute the issue which is pending before the Court below and pray for quashing the same.

5. Counsel for the applicants at this stage submits that yet the evidence is not started before the court below. The dispute has been resolved amicably by the parties by entering into compromise. The

complainant is not likely to support the case of the prosecution, and therefore, the possibility of applicant's conviction is very remote.

6. Learned counsel for the State, in turn, submits that the State has no objection in case if the matter is compounded as the parties have already entered into compromise.

7. In view of the categorical statement made by the complainant as well as the accused/applicants, this Court is of the opinion that once when the complainant and the accused have settled their matter and buried the dispute and differences, it would be an important consideration for the High Court while exercising the powers under Section 482 CrPC to compound the offence. The opinion of this Court stands fortified from the judgment of the Supreme Court in the case of **Gian Singh v. State of Punjab & Another** [2012 (10) SCC 303] and also in the case of **Narinder Singh & Others v. State of Punjab & Another** [2014 (6) SCC 466].

8. Another aspect which has to be borne in mind is that the parties to the dispute having entered into a settlement and compromised the matter, there is a minimal chance of the complainant coming forward in support of the prosecution case and the chances of conviction therefore appear to be very remote and it would not be justified to drag these proceedings unnecessarily knowing fully well the final outcome.

9. In view of the statement made by the complainant and the accused person; keeping in view the law laid down by the Supreme Court in the case of **B. S. Joshi & others v. State of Haryana & Another** [2003 (4) SCC 675] and in the case of Gian Singh (supra) and Narinder Singh (supra) and also considering the fact that other offences have already

been compounded by the court below, this Court is of the opinion that it is a fit case where the parties can be permitted to compound the offence.

10. Accordingly, the present petition under Section 482 CrPC is allowed. The consequential proceedings in Criminal Case No.424 of 2014 pending before the Judicial Magistrate First Class, Pendra Road, stand quashed and the applicants, who are the accused persons in that case, stand discharged from the offence punishable under Section 326 IPC.

Sd/-
(P. Sam Koshy)
Judge