

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRIMINAL MISC. PETITION NO. 1119 OF 2015

1. Kumar Shiv Prakash, S/o Sahjanand Prasad, aged about 41 years, R/o 201, Garden Apartment, Maitri Kunj, Risali, Bhilai, Tahsil & District Durg (C.G.)
2. Pravin Singh, S/o Shri R.K. Singh, aged about 40 years, R/o Flat No. 126/1, Maitri Kunj, Risali, Bhilai, Tahsil & District Durg (C.G.)
3. Ashwin Martin S/o Shri H.H. Martin, aged about 47 years, R/o Phase - 6, Flat No. 29, Maitri Nagar, Risali, Bhilai, Tahsil & District Durg (C.G.)
4. Kalam Khan, S/o Shri Mohammad Rasul, aged about 50 years, R/o Ruwabandha Town (Basti), Near Wine-Shop (County-Liquor), Bhilai, Tahsil & District Durg (C.G.)

... Applicants

Versus

1. State of Chhattisgarh, through the Station House Officer, P.S. Utai, District Durg (C.G.)
2. Mohammad Asif, S/o Shri Badaruddin, aged 35 years, R/o Flat No. 2/4, Ispat Nagar, Risali, Bhilai, P.S. Nevati, Tahsil & District Durg (C.G.)

... Non-applicants

For Applicants	:	Mr. M.P.S. Bhatia, Advocate.
For Non-applicant No.1	:	Mr. Anupam Dubey, Dy. Govt. Advocate.
For Non-applicant No.2	:	Mr. Aditya Khare, Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

26/07/2016

1. The present application has been filed by the Applicants under Section 482 CrPC seeking for quashment of the FIR No.146 of 2014 for offence punishable under Sections 420, 467, 468 and 471/34 IPC in a proceeding pending before the Judicial Magistrate First Class, Durg, i.e., Criminal Case No. 6799 of 2015.
2. According to learned Counsel for the Applicants, originally the Non-applicant No.2 has filed a complaint against the present Applicants for which offence under Sections 420, 467, 468 and 471/34 IPC was registered. However, pending the case before the Trial Court, the parties have now entered into an out of Court settlement and they want the matter to be compounded and the Complainant intends not to prosecute the present Applicants any further for

which they have also filed an application under Section 320(2) CrPC before the Court below. On their application under Section 320(2) CrPC, the Court below permitted them to compound the offence under Section 420/34 IPC vide order dated 3.11.2015 (Annexure A-1) and accordingly compounded the offence under Section 420/34 IPC. However, the offence under Sections 467, 468 and 471/34 IPC were not compoundable and therefore the Court below refused to compound the said offences and ordered for proceeding with the trial for the offence under Sections 467, 468 and 471/34 IPC.

3. It is on this ground that the present application under Section 482 CrPC has been filed submitting that the parties had entered an out of Court settlement and the Complainant who is also present before the Court today along with his Counsel makes a submission that he does not intend to prosecute the Applicants any further and wants the matter to be closed once for all, as his grievance in the course of the pendency of the trial has been redressed. He has also received all the dues that were payable by way of compromise and therefore the Applicants who are present before the Court today pray that the matter may be permitted to be compounded.

4. Learned Counsel appearing for Non-applicant No.2/Complainant, present along with the Complainant before the Court, also does not have any objection for the same.

5. Learned State Counsel also submits that since the disputing parties have already resolved their dispute amicably out of Court, he does not have any objection if the offence is compounded.

6. Taking into consideration the facts and circumstances of the case, more particularly the statement made by the Complainant as also the affidavit furnished by all the parties to the dispute and also being not opposed by the learned State Counsel, in the light of the order passed by the Supreme Court in the matter of **B.S. Joshi and Others Vs. State of Haryana & Another**,

reported in **(2003) 4 SCC 675**, this Court is of the opinion that present is a fit case to be allowed.

7. Accordingly, the proceedings of Criminal Case No.6799 of 2015 stand quashed and the Applicants are acquitted of the charges punishable under Sections 467, 468 and 471/34 IPC.

8. The Criminal Misc. Petition stands accordingly disposed of.

Sd/-
(P. Sam Koshy)
Judge

/sharad/