

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRIMINAL MISC. PETITION NO. 728 OF 2015

Mamta Dadsena, 44 years, W/o Ashwini Dadsena, R/o Amarpuri Chowk,
P.S. & PO Sundar Nagar, Raipur

... Petitioner

Versus

1. State of Chhattisgarh, through District Magistrate, District Durg
2. Ganesia, 72 years, Wd/o Sukalu, Gudiyari, Raipur
3. Ganesh, 70 years, S/o Late Dukalu Ram, Vill. Amleshwar, Teh. Patan, Durg.
4. Punai, 68 years, W/o Bishat, Lalpur, Raipur
5. Rambai, 64 years, W/o Itwari, Sundongari, Hirapur, Raipur

... Respondents

For Petitioner	:	Mr. B.P. Singh, Advocate.
For Respondent No.1-State	:	Mr. Ashish Shukla, Govt. Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

27/10/2016

1. The present petition under Section 482 of CrPC has been filed seeking for quashment of the FIR, registered as Crime No.10 of 2014, at Police Station Amleshwar, District Durg and the consequential criminal proceeding initiated before the Court of Judicial Magistrate First Class, Bhilai-3, District Durg in Criminal Case No. 97 of 2014.
2. The present Petitioner is an accused in the said Criminal Case No. 97 of 2014 and is being prosecuted for the offence punishable under Sections 365, 343, 120-B, 420 read with Section 34 of IPC. In addition, there was also a property dispute between the parties and for which a civil suit was also filed before the Court of Fourth Additional District Judge, Durg, which was registered as Civil Suit No.5-A/2015.

3. Pending the two disputes before the concerned Courts, the matter has been resolved amicably and a compromise decree was passed on 28.6.2015 in the light of the compromise entered into between the disputing parties before the Lok Adalat that was held on 28.6.2015.

4. Pursuant to the settlement and the compromise between the disputing parties they have also decided to close the criminal case which was filed against the accused person and in the process an application for compounding the offence was moved under Section 320 of CrPC before the Trial Court i.e., the Court of Judicial Magistrate First Class, Bhilai-3, District Durg in Criminal Case No. 97 of 2014. After considering the said application, the Trial Court permitted the parties to compound the offence under Sections 343 and 420 of IPC. However, as it did not have the power to grant permission to compound the offence under Sections 365 and 120-B of IPC it did not allow the same and ordered for proceeding further with the two offence. Thus, leading to the filing of the present petition before this Court.

5. This Court on 20.8.2015 had ordered the parties to remain present before the Additional Registrar (Judicial) of this Court for recording of their respective statements. Record shows that the statements of the parties have been recorded wherein they have categorically mentioned that the matter has been resolved between the disputing parties and they do not intend to further prosecute the accused person any further in the criminal case and the matter was ordered to be listed before this Court.

6. Learned Counsel for the State on due perusal of the records does not dispute the fact that the compromise has been entered into between the parties and by virtue of settlement the civil suit as well as the criminal case before the Trial Court so far as the offence under Section 343 and

420 of IPC has been compounded. He however has objection as far as the offence under Section 365 and 120-B of IPC is concerned.

7. However, taking into consideration the submissions made by the respective Counsel for the parties and on perusal of the records particularly the order passed by the Fourth Additional District Judge in the Lok Adalat held on 28.6.2015 and also the fact that the substantive offence under Sections 343 and 420 of IPC has already been permitted to be compounded and in addition taking into consideration the fact that the complainant has also turned hostile before the Court below in the course of recording of evidence, in the opinion of this Court there is no possibility of the trial getting concluded and the petitioner-accused being convicted.

8. At this juncture, it would be trite to refer to the decision of the Supreme Court rendered in the matters of **B. S. Joshi & others v. State of Haryana & Another** [2003 (4) SCC 675], **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], wherein the Supreme Court has categorically held that in the event if the parties have amicably resolved their disputes and have moved an application for compounding the same and that the offence not being a crime against the society as it being private dispute between the two persons, the same can be permitted to be closed in the interest of justice or else the accused would have to undergo the trauma of trial unnecessarily when everybody knows that the end result would be that of an acquittal in the light of settlement and that there being no possibility of the complainant deposing against the accused.

9. Thus, in view of the statements made by the complainant as well as the accused and also keeping in view the law laid down by the Supreme

Court in the cases of B. S. Joshi, Gian Singh and Narinder Singh (*supra*), 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 petition under Section 482 of CrPC is allowed. The consequential proceedings of Criminal Case No. 97 of 2014 pending before the Judicial Magistrate First Class, Bhilai-3, District Durg arising out of Crime No. 10 of 2014 registered at Police Station Amleshwar, District Durg, for the offence under Sections 365 and 120-B of IPC stand quashed and the petitioner-accused is discharged from the offence punishable under Section 365 and 120-B of IPC.

Sd/-
(P. Sam Koshy)
Judge

/sharad/