

HIGH COURT OF CHHATTISGARH, BILASPUR**Cr.M.P. No. 553 of 2016**

1. Manoj Kumar S/o Jagdhar Yadav, aged about 22 years, R/o Vrinda Nagar, Borsi, Police Station - Pulgaon, District - Durg, Chhattisgarh
2. Shrawan @ Santosh S/o Jagdhar Yadav, aged about 26 years R/o Vrinda Nagar, Borsi, Police Station - Pulgaon, District - Durg, Chhattisgarh

---- Petitioners**Versus**

1. State of Chhattisgarh through Police Station - Pulgaon, District - Durg, Chhattisgarh
2. Smt. Lalita Sahu W/o Late Ram Pyare Sahu, aged about 50 years, R/o Bamleshwari Colony, Borsi, P.S. - Pulgaon, District - Durg, Chhattisgarh
3. Bharat Kumar S/o Narayan Singh Sahu, aged about 20 years, R/o Vrinda Nagar, Borsi, Police Station - Pulgaon, District - Durg, Chhattisgarh
4. Chandrika Sahu W/o Narayan Singh Sahu, aged about 40 years R/o Vrinda Nagar, Borsi, Police Station - Pulgaon, District - Durg, Chhattisgarh

---- Respondents

For Petitioners	: Shri Jitendra Gupta, Advocate
For Respondent no.1/State	: Shri Bhaskar Payashi, Panel Lawyer
For Respondent no.2	: Shri A. K. Purkait, Advocate
For Respondents 3 & 4	: Shri Goutam Khetrapal, Advocate

Hon'ble Shri Justice P. Sam Koshy**Order On Board****21/11/2016**

1. The present petition under Section 482 CrPC has been preferred by the petitioners seeking permission for compounding the offence in respect of a matter which is pending for consideration before the 7th Additional Sessions Judge, Durg in Criminal Appeal No. 127 of 2013.

2. Learned Counsel for the petitioners submits that it is a case where the present petitioners along with respondents 3 & 4 have been convicted in Criminal Case No. 148 of 2011 by the JMFC, Durg vide its order dated 14.06.2013 for having committed the offence under Sections 458/34, 323/34 IPC and Section 5 of Tonhi Pratarana Adhiniyam and sentenced to undergo RI for 3 years with fine of Rs.200/-, RI for three months with fine of Rs.500/- and RI for two years with fine of Rs.200/- respectively with default stipulations. Against the said order dated 14.06.2013, the accused persons preferred an appeal which is pending for consideration before the 7th Additional Sessions Judge, Durg in Criminal Appeal No.127 of 2013.

3. According to the counsel for the petitioners, pending the appeal before the Court below, the complainant in the instant case i.e. respondent No.2 Smt. Lalita Sahu has compromised/settled her grievance with the present petitioners and now she does not intend to prosecute the petitioners any further. He submits that the petitioners who had settled their grievances had moved an appropriate application before the Court below under Section 320 (2) of CrPC. The Court below permitted compounding of the offence under Section 323/34 of IPC but rejected the application in respect of the offence under Sections 458/34 of IPC and 5 of Tonhi Pratadna Adhiniyam as the same were not compoundable leading to the filing of the present petition.

4. According to the counsel for the petitioners, since the complainant and the petitioners have already resolved their grievances and the complainant also does not want the present petitioners to face the trial any further and therefore they may be permitted for closing the matter once and for all.

5. Both the parties are represented through their counsel. Complainant Smt. Lalita Sahu is also present before this Court along with her Advocate Shri A. K. Purkait.

6. On a specific query being put to the complainant Lalita Sahu by this Court, she makes a categorical statement that the matter has been resolved so far as the present petitioners are concerned. The complaint further states that she does not intend to prosecute the present petitioners any further and wants the matter to be closed once and for all.

7. This Court vide its order dated 24.05.2016 had ordered the parties to the dispute to enter appearance before the Registrar (Judicial) for recording their statements in this regard. As per the said direction, they have already given their statements before the Registrar (J) which is on record.

8. Shri Goutam Khetrapal, Advocate enters appearance for the respondents 3 & 4 who are also accused with whom the compromise has not been entered into.

9. Counsel for the State also submits that since the complainant herself does not want to prosecute the present petitioners, the State does not have any objection if the matter is closed and the offence is permitted to be compounded.

10. In view of the categorical statements made by the Complainant Smt. Lalita Sahu, this Court is of the opinion that once when the Complainant and the accused petitioners have settled their matter, it would be an important consideration for the High Court while exercising the powers under Section 482 CrPC to compound the offence.

11. 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 **Central Bureau of Investigation, ACB, Mumbai v. Narendra Lal Jain and Others** [2014 (5) SCC 364].

12. In view of the statement made by the Complainant and 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 **Central Bureau of Investigation** (*supra*), this Court is of the opinion that it is a fit case where the parties can be permitted to compound the offence.

13. Accordingly, the petition under Section 482 CrPC is allowed. The present petitioners who are the appellants before the 7th Additional Sessions Judge, Durg in Criminal Appeal No.127 of 2013 are acquitted from the offence for which they have been convicted and sentenced.

Sd/-
(P. Sam Koshy)
JUDGE