

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

CRIMINAL MISC. PETITION NO. 966 OF 2016

1. Krishna Kumar Gupta, S/o Late Shri Shyamnath Gupta, aged about 63 years, R/o Camp-2, Santoshi Para, Bhilai, P.S. Chawani, District Durg (C.G.)
2. Manish Kumar Gupta, S/o Shri Krishna Kumar Gupta, aged about 38 years, R/o Camp-2, Santoshi Para, Bhilai, P.S. Chawani, District Durg (C.G.)
3. Amarjeet Singh, S/o Pyara Singh, aged about 35 years, R/o M.P. Housing Board Colony, Industrial Area Bhilai, P.S. Jamul, District Durg (C.G.)
4. Ujjawal Kumar Shrivastava, S/o Shri S.P. Shrivastava, aged about 38 years, R/o Near Old Shiv Temple, Vaishali Nagar Bhilai, P.S. Supela Chowki, Vasili Nagar, District Durg (C.G.)

... Petitioners

Versus

1. State of Chhattisgarh, through Station House Officer, Police Station Durg, District Durg (C.G.)
2. Rakhi Gupta, D/o Shri Late Kanyilal Gupta, aged about 31 years, R/o Road No.34, Zone-2, Khursipar, Bhilai, Tahsil and District Durg (C.G.)

... Respondents

For Petitioners	:	Mr. B.P. Singh, Advocate.
For Respondent 1	:	Mr. V.K. Tekam, Panel Lawyer.
For Respondent 2	:	Mr. K.K. Dwivedi, Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

22/12/2016

1. The present petition under Section 482 of CrPC has been filed by the Petitioners seeking for quashment of the FIR, registered as Crime No.235 of 2013, on 11.3.2013, at Police Station Durg, District Durg, as also the criminal proceeding pending against the Petitioners before the Court of Judicial Magistrate First Class, Durg, for the offence punishable under Sections 419, 420, 467, 468, 471, 120-B/34 of IPC.
2. Respondent No.2, the Complainant, had filed a complaint against the present Petitioners, accused persons, for having fraudulently got her property transferred and sold in the name of Petitioner No.4.

3. Pending the petition before this Court, the parties to the dispute, i.e., Respondent No.2 as well as the Petitioners, have entered into a compromise.

4. On the previous date of hearing, i.e., on 28.11.2016, the parties to the dispute were present before this Court and they were directed to enter their appearance before the Registrar (Judicial) of this Court, who in turn was directed to record the statements to be made by each of the parties to the dispute, i.e., Respondent No.2 and the Petitioners. Accordingly, the parties to the dispute have entered their appearance before the Registrar (Judicial) and have made their statements, which is a part of the order-sheet of this Court.

5. A reading of the statements of the Petitioners as well as that of Respondent No.2, clearly reflects that the matter has been amicably settled between the parties and the Respondent No.2-Complainant in very specific terms before the Registrar (Judicial) has stated that since the matter has been amicably settled she does not intend to prosecute the Petitioners, accused persons, any further.

6. Respondent No.2-Complainant, is also represented through her Counsel, Shri K.K. Dwivedi, who also makes a statement that he has specific instructions on behalf of Respondent No.2 to state that the matter has been amicably settled and the Respondent No.2 does not intend to continue with the criminal prosecution any further and wants the matter to be closed once and for all. Similar statements have also been recorded of all the petitioners/accused persons.

7. Counsel for the State submits that since the Respondent No.2-Complainant who has entered appearance before this Court and made a statement that she does not intend to prosecute the Petitioners any further, the State does not have any objection in case, if the matter is closed.

8. At this juncture, it would be trite to refer to the decisions of the Hon'ble 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 Hon'ble Apex 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. Considering the facts and circumstances of this case, it is seen further that the impugned criminal proceeding has arisen consequent to the personal dispute between the disputants and the dispute has been settled amicably between the parties. Accordingly, this Court is inclined to hold that in the light of the facts and circumstances involved in the present case and particularly in view of the settlement arrived at between the parties, the principles laid down in the aforementioned decisions of the Hon'ble Apex Court will be squarely applicable in the present case. Moreover, since the real disputants to the controversy have amicably settled the dispute, which led to the impugned criminal proceeding, it is also the duty of the Court to promote such settlement, instead of compelling the parties to go on with the dispute. It is also pertinent to note that since the matter is settled out of Court, in the event of proceeding with the trial, there may not be any fruitful purpose and the chances of

conviction of the accused is rather negligible and therefore, the net result of continuance of criminal proceedings would be sheer waste of judicial time rather meaningless and therefore would amount to abuse of the process of Court proceedings in the larger sense. Hence, following the decisions of the Hon'ble Apex Court cited supra, this Court is inclined to hold that the Cr.M.P. can be allowed by granting the prayer sought for.

10. It is a well settled law that where the High Court is convinced that the offences are entirely personal in nature and therefore do not affect public peace or tranquility and where it feels that quashing of such proceedings on account of compromise would bring about peace and would secure ends of justice, it should not hesitate to quash them. In such cases, pursuing prosecution would be waste of time and energy. Non-compoundable offences are basically an obstruction in entering into compromise. In certain cases, the main offence is compoundable but the connected offences are not. In the case of *B.S. Joshi* (supra), the Hon'ble Apex Court observed that even though the provisions of Section 320 of CrPC would not apply to such offences which are not compoundable, it did not limit or affect the powers under Section 482 of CrPC. The Hon'ble Apex Court laid down that if for the purpose of securing the ends of justice, quashing of FIR becomes necessary, Section 320 of CrPC would not be a bar to the exercise of power of quashing. In nutshell, the Hon'ble Apex Court justified the exercise of powers under Section 482 of CrPC to quash the proceedings to secure the ends of justice in view of the special facts and circumstances of the case, even where the offences were non-compoundable.

11. Thus, taking into consideration the peculiar facts and circumstances of the case and in view of the statements made by the respondent-complainant as well as the petitioner-accused and also keeping in view the

law laid down by the Hon'ble Apex 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 offences.

12. Accordingly, the criminal proceedings drawn so far as the present Petitioners is concerned arising out of Crime No. 235 of 2013 registered at Police Station Durg, District Durg stand quashed and the Petitioners are discharged from the offence under Sections 419, 420, 467, 468, 471, 120-B/34 of IPC.

13. The Criminal Misc. Petition is accordingly allowed.

Sd/-
(P. Sam Koshy)
Judge

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