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**HIGH COURT OF CHHATTISGARH, BILASPUR**

**CRIMINAL MISC. PETITION NO. 1166 OF 2016**

1. Nitesh Agrawal, S/o Gajanand Agrawal, aged 37 years, Director, Balaji, Minerals, Guma Road, Borjhara, Urla, Raipur, R/o Maruti Lifestyle, Kota, Raipur (C.G.)
2. Rakesh Agrawal, S/o Late Shri Raghunath Agrawal, aged 36 years, Director, Sudarshan Metallic, Siltara, Raipur, R/o Flat No.303, Shilp Apartments, Shanker Nagar, Raipur (C.G.)
3. Vimal Sultania, S/o Vinod Sultania, aged 35 years, Director, Gangotri, Metal and Alliance India Private Ltd., Kanhera Road, Acholi, Urla, Raipur, R/o P.P. Bakshi Marg, Choubey Colony, Raipur (C.G.)
4. Mukesh Agrawal, S/o Dr. B.D. Agrawal, aged 38 years, Partner M/s Divyashree Industries, R/o House No.02, Shrasthi Garden, Opposite Airtel Office, Ring Road No.1, Telibandha, Raipur (C.G.)

**... Petitioners**

**Versus**

1. The State of Chhattisgarh, through Police Station Khamtarai, District Raipur (C.G.)
2. Anil Kumar Potbhare, S/o Shri Shrawan Potbhare, aged 42 years, Manager-cum-Authorized Signatory of Inland World Logistic Private Ltd., R/o Kabeer Nagar, Raipur (C.G.)

**... Respondents**

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| For Petitioners  | : | Mr. Surendra Singh, Senior Advocate along with Mr. Abhishek Sinha and Mr. G.S. Patel, Advocates. |
| For Respondent 1 | : | Mr. Ashish Shukla, Govt. Advocate.                                                               |
| For Respondent 2 | : | Mr. Ravindra Sharma, Advocate.                                                                   |

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**Hon'ble Shri Justice P. Sam Koshy**

**Order on Board**

**21/11/2016**

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.139 of 2016, at Police Station Khamtarai, District Raipur as also the charge-sheet framed for the offence under Sections 407, 409, 419, 420, 467, 468, 471 & 120-B of IPC filed before the Chief Judicial Magistrate, Raipur.

2. Case of the prosecution in brief is that a complaint was made by Respondent No.2 against the Petitioners and the other accused persons alleging that the company to which he is representing, i.e., M/s Inland World Logistic Private Ltd., which is a company based at Raipur, has been cheated by the the Petitioners and the other accused persons inasmuch as aluminum ingots and aluminum wires loaded in four Trucks have been misappropriated and sold in the open market on the basis of fake documents used by the alleged Transporters and the Transport Contractors. It is said that there was a huge conspiracy played by the Petitioners and other accused persons inasmuch as the consignment was ordered to send from Raipur to Bangalore and the consignment in fact did not reach the destination and it was found that the consignment en route was sold by some of the accused persons to one Sandeep Bansal, also an accused person, who in turn has sold the said consignment to the present Petitioners through a mediator namely Hakimuddin who is also an accused person.

3. Shri Surendra Singh, learned Senior Counsel for the Petitioners, submits that pending the investigation before the authority concerned, the Complainant/Respondent No.2 has resolved the dispute that they have with the Petitioners and have compromised the matter and they do not want to prosecute the Petitioners any further and therefore want the matter to be settled once and for all so far as the present Petitioners are concerned. He further submits that during the pendency of the aforementioned criminal proceedings, the matter has been settled amicably between the parties, which is resulted in the subject matter of the aforementioned crime/case and that the continuation of the proceedings in the above case/crime will cause miscarriage of justice to both parties as the real disputants to the case have arrived at an amicable settlement and

any further continuation of the criminal proceedings will amount to sheer wastage of time and money and would unnecessarily strain the financial, administrative and financial resources of the State.

4. Shri Ravindra Sharma, learned Counsel for Respondent No.2, submits that the Petitioners have compounded the dispute between the parties and the company has received the full value of the goods that have purchased, by the present Petitioners and in the light of they being satisfied with the money that has been paid to them, Respondent No.2 does not want to prosecute the Petitioners any further.

5. Respondent No.2, namely, Anil Kumar Potbhare, is present before this Court. On a specific query being put to him, he makes a submission that since the matter has been resolved with the Petitioners and it has been compromised, he does not want to prosecute the Petitioners any further.

6. Shri Ashish Shukla, learned Government Advocate, however raises an objection as to whether the present case could be settled so far as the Petitioners alone and further that the present Petitioners also being accused for the offence under Section 120-B of IPC. However, he submits that since the Complainant who is present before this Court makes a statement that he does not want to prosecute the Petitioners any further, the State may not have any objection if the matter is closed so far as the present Petitioners are concerned.

7. 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

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.

**8.** Considering the facts and circumstances of this case, it is seen further that the impugned criminal proceedings have arisen consequent to the personal disputes between the disputants and the disputes have 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 disputes, which led to these impugned criminal proceedings, 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 prosecution 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 prayers sought for.

9. 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 the 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.

10. 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 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 offences.

**11.** Accordingly, the consequential proceeding drawn so far as the present Petitioners is concerned arising out of Crime No.139 of 2016 registered at Police Station Khamtarai, District Raipur stand quashed and the Petitioners are discharged from the offence under Sections 407, 409, 419, 420, 467, 468, 471 & 120-B of IPC.

**12.** The Criminal Misc. Petition is allowed.

Sd/-  
**(P. Sam Koshy)**  
Judge

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