

CRM-M-30307-2016

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

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Date of Decision: 23.09.2016

M/s Guru Nanak Dental College and Research Institute and another

... Petitioners

Versus

Dr. B. Balasubramanyam

... Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr. Manish Kumar Singla, Advocate,
for the petitioners.

INDERJIT SINGH, J.

Petitioners, M/s Guru Nanak Dental College and Research Institute through its Chairman Dr. Vikram Sharma and Dr. J.P.S.Kalra has filed this petition under Section 482 of the Code of Criminal Procedure, 1973 (for brevity, 'Cr.P.C.') against respondent, Dr. B. Balasubramanyam for quashing of complaint No.33 dated 18.03.2015 (Annexure P-1), titled as 'Dr. B. Balasubramanyam vs. M/s Guru Nanak Dental College and Research Institute and another', pending in the Court of learned Sub Divisional Judicial Magistrate, Sunam, as the petitioners have already moved application dated 17.12.2015 (Annexure P-2) seeking permission to compound the offence along with three bank drafts, amounting to ₹75,000/- each (equivalent to the amount as claimed in the complaint), but the complainant is not giving his consent to compound the offence, rather has

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moved application dated 17.05.2016 (Annexure P-3) for transfer of the case to Hyderabad.

I have heard learned counsel for the petitioners and perused the record.

At the time of arguments, learned counsel for the petitioners argued for quashing of the complaint on the ground that the petitioners have already moved application (Annexure P-2) seeking permission to compound the offence as they have already attached three drafts of ₹75,000/- each (equivalent to the amount as claimed in the complaint) along with the application, however, the complainant has refused to compound the offence.

Keeping in view the fact that the complainant is not giving his consent, therefore, offence cannot be compounded. The Hon'ble Supreme Court of India in ***JK Industries Limited and Ors. vs. Amarlal V. Jumanji and Another*** 2012 (1) R.C.R (Criminal) 822 has held that the basic procedure of compounding an offence laid down in Section 320 Cr.P.C. will apply to compounding of an offence under the Negotiable Instruments Act. In ***JK Industries*** case (supra), it has been held that there is no automatic compounding of offence under Section 138 of the Negotiable Instruments Act even without the consent of the complainant.

Keeping in view the law laid down by the Hon'ble Supreme Court in ***JK Industries*** case (supra), the offence cannot be compounded without the consent of the other party or the complainant and, therefore, the present complaint and summoning order cannot be set aside only on that ground.

Therefore, finding no merit in the present petition, the same is

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dismissed.

23.09.2016
parveen kumar

(INDERJIT SINGH)
JUDGE

Note:	Whether speaking/reasoned	:	Yes
	Whether reportable	:	Yes