

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 178 of 2017

Bharat Singh Sahu S/o Shri Punuram Sahu, Aged About 63 Years R/o Heerapur,
Police Station Balod, Tahsil & District Balod, Chhattisgarh.

---- Petitioner

Versus

State Of Chhattisgarh Through District Magistrate, Balod, District Balod,
Chhattisgarh.

---- Respondent

For Petitioner	:	Shri Pankaj Agrawal, Advocate
For State	:	Shri Aditya Sharma, Panel Lawyer

S.B. Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

08/03/2017

1. Present petition for quashing criminal proceedings has been filed under Section 482 Cr.P.C. by the petitioner.
2. Prosecution case appears to be that one Asho Bai lodged a complaint against a co-accused -Vijay Singh Shakya alleging that said Vijay Singh Shakya, on the basis of power of attorney executed in his favour by Asho Bai, got a sale deed executed in his own name. It is alleged that Vijay Singh Shakya submitted for registration, a sale deed of sale of land by Asho Bai through her power of attorney holder Vijay Singh Shakya, in favour of Vijay Singh Shakya himself. Asho Bai, in her complaint in writing, stated that she has been cheated and criminal action be taken against Vijay Singh Shakya or he be directed to make payment of balance amount of Rs.19,50,000/-. On the report of Asho Bai, a criminal case alleging commission of offence under Section 420, 467, 468 of IPC was registered against Vijay Singh Shakya. Later on, however, the police filed another charge sheet against the present petitioner alleging that it was the petitioner who had ascribed the sale deed presented for the purpose before him

by Vijay Singh Shakya.

3. Learned counsel for the petitioner submits that in course of time, main accused - Vijay Singh Shakya and complainant / Asho Bai have already entered into settlement and compromise. It is further submitted that based on compromise, an application for compounding offence was filed by Vijay Singh Shakya and though learned Trial Court compounded offence under Section 420 IPC, the same being compoundable under Section 320 Cr.P.C, other offences were not compounded because they were not compoundable. Thereafter, it is submitted that Vijay Singh Shakya filed a petition under Section 482 Cr.P.C. before this Court and vide order dated 05/09/2016, petition of Vijay Singh Shakya has been allowed and criminal proceedings quashed taking into consideration that the dispute between Vijay Singh Shakya and Asho Bai relating to transaction of sale of land has come to an end and once there is settlement between them, no useful purpose would be served in continuing with the criminal proceedings.

Therefore, on the aforesaid premise, the petitioner herein, who happened to be a document writer at the relevant time and who had ascribed the sale deed, has also filed this petition seeking quashment of criminal proceedings by submitting that in so far as the present petitioner is concerned, there is no criminality involved. In so far as act of drafting of sale deed by the petitioner is concerned, reliance has been placed on the order passed by this Court on 05/09/2016 in the case of *Vijay Singh Shakya v. State of Chhattisgarh*¹ and in the case of *Purendra Kumar Chivram Vs. State of Chhattisgarh*² as also order passed by the High Court of Madhya Pradesh on 22/01/2009 in M.Cr.C. No.1073/2008 (Surendra Kori v. State of Madhya Pradesh).

4. On the other hand, learned State counsel submits that in so far as the case of the petitioner is concerned, it arises out of the same sale transaction wherein Asho Bai has complained against Vijay Singh Shakya which led to quashment of criminal proceedings against Vijay Singh Shakya taking into consideration the compromise and settlement between Asho Bai and Vijay Singh Shakya.

Learned counsel for the State, however, could not dispute that the case of the petitioner herein stands on similar footing as that of other accused or even better as compared to other accused Vijay Singh Shakya and Purendra

1. Order dated 05.09.2016 passed in CRMP No.334 of 2016
2. Order dated 06.02.2017 passed in CRMP No.464 of 2016

Kumar Chivram

5. Having heard learned counsel for the parties, I find that genesis of alleged criminal act against the petitioner arises out of dispute between Asho Bai and Vijay Singh Shakya. Complaint of Asho Bai is that Vijay Singh Shakya got a sale deed registered in his own name using power of attorney given to him by Asho Bai. She alternatively claimed that she be paid balance amount Rs.19,50,000/- in addition to advance of two lakhs which was paid to her by Vijay Singh Shakya. Later on, both of them compromised. During trial also, Asho Bai was examined and she has become hostile and not supported the case of the prosecution, so also her witnesses who were examined before the Court. At this stage, petition under Section 482 Cr.P.C. filed by Vijay Singh Shakya was allowed by this Court. Therefore, in view of the aforesaid consideration, the present petitioner, who happened to be a Document Writer and involved only to the extent of preparation of sale deed, is also entitled to the same relief and further that the offence against main accused – Vijay Singh Shakya have been discharged by quashing criminal proceedings because of compromise and settlement with Asho Bai, prosecution of the petitioner herein would certainly amount to abuse of the process of law.
6. Resultantly, this petition is allowed. Criminal proceedings in criminal case No.1493/2015, pending in the Court of Chief Judicial Magistrate, Balod are quashed.

Sd/-
(Manindra Mohan Shrivastava)
Judge