

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 333 of 2017**

Rajju Banjare S/o Gokul Banjare Aged About 20 Years Accused (Not In Jail) - R/o Village Nandeli, Police Station- Dhamdha, District- Durg, Chhattisgarh.

---- Petitioner**Versus**

1. State Of Chhattisgarh Through, The Station House Officer, Police Station Dhamdha, District - Durg, Chhattisgarh.
2. Savitri Khutel, D/o Sukhchand Khutel Aged About 16 Years (At Present Aged About 19 Years) Daughter Of Sukhchand Khutel, Through Father Sukhchand Khutel, Aged About 48 Years, R/o- Village- Nandeli, Police Station- Dhamdha, District- Durg, Chhattisgarh.

---- Respondents

For the Petitioner	: Shri Shokie Yadav, Advocate.
For the Respondent/State	: Shri Vivek Singhal, PL.
For respondent No.2.	: Shri Rohitashva Singh, Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**Order on Board****12.10.2017**

Heard.

1. This petition under Section 482 of Cr.P.C has been brought for quashment of criminal proceedings against the petitioner, on the basis of the compromise between the parties.
2. On a complaint made by respondent No.2, petitioner is being prosecuted for offence under Section 354-A/34 of IPC. The other

accused being Juvenile has been charge-sheeted before the Juvenile Justice Board.

3. It is submitted that during the course of trial respondent No.2 has entered into a compromise and petitioner has moved an application for compounding the offences against the petitioner, but the same has been rejected, as the offences are not compoundable under Section 320 of Cr.P.C. hence, this petition.
4. Statement of respondent No.2 (Savitri Khutel) has been recorded by ARJ, of this Court, in which she has stated that she has given consent for compromise with the petitioner without any fear and influence and does not wish that the proceedings against the petitioner should continue.
5. The Hon'ble Supreme Court in ***Gian Singh v. State of Punjab & Another***¹ has laid down the following principles :

“61. The position that emerges from the above discussion can be summarised thus: the power of the High Court in quashing a criminal proceeding or FIR or complaint in exercise of its inherent jurisdiction is distinct and different from the power given to a criminal court for compounding the offences under Section 320 of the Code. Inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accordance with the guidelines engrafted in such power viz; (i) to secure the ends of justice or (ii) to prevent abuse of the process of any Court. In what cases power to quash the criminal proceeding or complaint or F.I.R may be exercised where the offender and victim have settled their dispute would depend on the facts and circumstances of each case and no

1. (2012) 10 SCC 303

category can be prescribed. However, before exercise of such power, the High Court must have due regard to the nature and gravity of the crime. Heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. cannot be fittingly quashed even though the victim or victim's family and the offender have settled the dispute. Such offences are not private in nature and have serious impact on society. Similarly, any compromise between the victim and offender in relation to the offences under special statutes like Prevention of Corruption Act or the offences committed by public servants while working in that capacity etc; cannot provide for any basis for quashing criminal proceedings involving such offences. But the criminal cases having overwhelmingly and pre-dominatingly civil favour stand on different footing for the purposes of quashing, particularly the offences arising from commercial, financial, mercantile, civil, partnership or such like transactions or the offences arising out of matrimony relating to dowry, etc. or the family disputes where the wrong is basically private or personal in nature and the parties have resolved their entire dispute. In this category of cases, High Court may quash criminal proceedings if in its view, because of the compromise between the offender and victim, the possibility of conviction is remote and bleak and continuation of criminal case would put accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case despite full and complete settlement and compromise with the victim. In other words, the High Court must consider whether it would be unfair or contrary to the interest of justice to continue with the criminal proceeding or continuation of the criminal proceeding would tantamount to abuse of process of law despite settlement and compromise between the victim and wrongdoer and whether to secure the ends of justice, it is appropriate that criminal case is put to an end and if the answer to the above question(s) is in affirmative, the High

Court shall be well within its jurisdiction to quash the criminal proceeding.”

6. Keeping in mind the law laid down by the Hon'ble Supreme Court in Gian Singh' case (supra), this Court is of the view that present is a fit case in which inherent jurisdiction under Section 482 of Cr.P.C. can be exercised to quash the criminal proceeding pending against the petitioner.
7. Accordingly, the petition is allowed at the motion stage itself. The criminal proceeding pending against the petitioner before the Court of learned Judicial Magistrate First Class, Durg in the form of Criminal Case No.25730/2013 is hereby quashed.
8. The petition is, accordingly disposed off.

Sd /-

(Rajendra Chandra Singh Samant)

Judge