

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Cr.M.P. No. 884 of 2014**

Prakash G. Hegde S/o . Gopal Krishna Hedge Aged About 37 Years
R/o. House No.1-A, Hedge Mane Lingadbail Talluk Teh & P.S. Yellapur,
Distt. North Kannada, Karnataka

---- Petitioner**Versus**

1. State Of Chhattisgarh Through: Superintendent Of Police, Raipur (C.G.)
2. Shivnath Minerals & Chemicals Through: Its Managing Director, G-8, Teh. & Distt. Raipur (C.G.)

---- Respondents

For the Petitioner	: Shri Anup Majumdar, Advocate.
For Respondent No.1/ State	: Shri Anil S. Pandey, Government Advocate.
For Respondent No.2	: Shri Ankit Singhal, Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****13.10.2017**

1. Heard.
2. This petition has been brought by the petitioner under Section 482 of the Code of Criminal Procedure to quash the criminal proceedings against the petitioner pending before the Court of Chief Judicial Magistrate, Raipur in Criminal Case No. 3747 of 2011.
3. On a complaint made by respondent No.2, the case was registered and the petitioner is being prosecuted for the offences under Sections 420, 457, 468 and 471 read with Section 120-B of the Indian Penal Code, alleging in it that in a commercial transaction between the parties the company of the petitioner supplied iron ore of inferior quality to respondent No.2 and thereby

committed offence of cheating and forgery etc. An application for compounding of offence was brought before the trial Court but the same has been rejected. Hence, this petition.

3. By orders of this Court, statement of representative of the complainant/ respondent No.2 – Arun Poddar was recorded and he has stated on oath before Additional Registrar (Judicial) that a compromise has been entered between the parties and consent has been given without any fear, favour or influence for compounding of offence and that the complainant does not want to proceed with the criminal proceedings against the petitioner. Looking to the facts and circumstances of the case, in particular, the view laid down by the 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 accord** with the guideline 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 category can be prescribed. However, before exercise of such power, the High Court must have due regard to the nature and

¹. (2012) 10 SCC 303

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.

4. Considering the facts and circumstances of this case, the dispute between the parties has been amicably settled and for this reason no purpose would be served if the petitioner is continued to be prosecuted by the State. Hence, in the interest of justice, this petition is allowed. The criminal proceedings against the petitioner under Sections 420, 457, 468 and 471 read with Section 120-B of the Indian Penal Code pending before the Chief Judicial Magistrate, Raipur in Criminal Case No. 3747 of 2011 are quashed.

5. In view of above, this petition stands disposed off at the motion stage.

Sd/-

(Rajendra Chandra Singh Samant)
Judge