

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Cr.M.P. No. 814 of 2017**

Sunil Choure S/o Chiranhjivi Lal Choure, Aged About 48 Years
R/o Sadak No. 19, Qtr, No. 6 H, Zone 1, Khurshipar, Bhilai, Tahsil
and District Durg, Chhattiasgarh.

---- Petitioner**Versus**

1. State Of Chhattisgarh through Station House Officer, Kotwali, Durg, District- Durg, Chhattisgarh.
2. Smt. Deepti Janbandhu W/o Narendra Kumar Janbandhu, Aged About 38 Years R/o Qtr. No. 10 A/ 2D Type, CISF Colony, Rajhara, Tahsil and District Balod Chhattisgarh.(Non Applicant)
3. S. Gouraiya S/o Tumber Gouraiya, Aged About 66 Years R/o Station Chowk, E- Cabin BMY Charoda, Tahsil and District Durg, Chhattisgarh. (Non Applicants)

---- Respondents

For the Petitioner	:	Shri B.P. Singh, Advocate.
For Respondent No.1/State	:	Shri Anil S. Pandey, Government Advocate.
For Respondents No.2 & 3	:	Shri Rajeev Kumar Dubey, Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****07.09.2017**

1. Heard.
2. This petition has been brought under Section 482 of the Code of Criminal Procedure with a prayer to quash the criminal proceedings against the petitioner.
3. Learned counsel for the petitioner submits that respondent No.2 lodged one First Information Report against the petitioner alleging that

on the pretext of facilitating for providing housing loan, the petitioner has taken the property documents and other documents with signature of respondent No.2 and then made use of those documents to transact with respondent No.3 for sale of the house owned by respondent No.2 and received Rs.6,55,000/- from respondent No.3. On the basis of the complaint made, offences under Section 420, 467, 468, 471, 120-B of the Indian Penal Code were registered. It is also submitted that during pendency of the case before the trial Court and after filing of charge-sheet, the petitioner and respondents No.2 and 3 have compromised and resolved their disputes and an application under Section 320 of the Code of Criminal Procedure was filed before the trial Court for composition of offences, but the same was rejected by order dated 16.5.2017 on the ground that the offences apart from Section 420 of the IPC are not compoundable. Hence, this petition.

4. Statements of respondents No.2 and 3 have been recorded by the Registry of this Court. Respondent No.2 – Smt. Deepti Janbandhu has stated on oath that the dispute between her and the petitioner has been compromised and she has given consent for compromise without any fear or influence. For these reasons, she prays for withdrawal of the case against the petitioner. Similar statement has been given by respondent No.3 – S. Gouraiya that he has also given the consent for compromise without any fear or influence and prays for withdrawal of the case against the petitioner.

5. Perused the record.

6. 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 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 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

¹. (2012) 10 SCC 303

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.

Considering the nature of the allegations against the petitioner in this case and in view of law laid down by the Hon'ble Apex Court in the afore-quoted case, this appears to be a fit case in which the inherent powers could be exercised as the dispute between the parties has been

amicably resolved and the dispute is of civil as well as of criminal in nature. Hence, for these reasons, this petition is allowed at the motion stage. The criminal proceedings against the petitioner pending before the Court of Judicial Magistrate First Class, Durg in Crime No. 49 of 2017 are hereby quashed.

7. Accordingly, this petition stands disposed off.

Sd/-

(Rajendra Chandra Singh Samant)
Judge

Nimmi