

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Cr.M.P. No. 834 of 2016**

1. Sanjay Agrawal S/o Parmanand Agrawal Aged About 46 Years R/o Itwari Bazar, Raigarh, Tahsil & District Raigarh, Chhattisgarh.
2. Anoop Bansal S/o Vinod Kumar Bansal Aged About 35 Years R/o Sharvan Vihar Colony, Tahsil & District Raigarh, Chhattisgarh.
3. Rakesh Pandey S/o Murlidhar Pandey Aged About 38 Years R/o Rajapara, Near Wagh Talab, Tahsil & District Raigarh, Chhattisgarh.
4. Sarabjeet Sardar S/o Jagjeet Singh Aged About 35 Years R/o Savitri Nagar Raigarh, Tahsil & District Raigarh, Chhattisgarh.

---- Petitioners**Versus**

1. State Of Chhattisgarh Through Secretary Home, Mantralaya, Mahanadi Bhavan, Naya Raipur, Raipur, Chhattisgarh.
2. Superintendent Of Police, District Raigarh, Chhattisgarh.
3. Station House Officer, Place Ghadghoda, District Raigarh, Chhattisgarh.
4. Lav Kumar Banjara S/o Arath Kumar Banjara Aged About 27 Years Occupation Driver, R/o Dindayal Colony, Raigarh, Tahsil & District Raigarh, Chhattisgarh.

---- Respondents

For the Petitioners	:	Shri Mateen Siddiqui, Advocate.
For the Respondent/State	:	Shri Anil S. Pandey, Government Advocate.
For Respondent No.4	:	Shri D.K. Gwalre, Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****24.08.2017**

1. Statements of the petitioners and respondent No.4 have been recorded by the Registry in compliance of the order dated 10.8.2017.
2. Learned counsel for the petitioners submits that on the basis of the First Information Report lodged by respondent No.4 – Lav Kumar Banjara, the offences under Sections 147, 148, 149, 294, 506, 323, 452 and 307 of

the Indian Penal Code have been registered against the petitioners in Crime No. 192 of 2014 on 23.5.2017 by Police Station Gharghora, District Raigarh. It is also submitted that respondent No.4 alleged that his signature was taken on some blank papers which was used to register FIR in the police station. Consequent to that, the petitioners and respondent No.4/ complainant have compromised and settled the dispute amicably. The case is still under investigation. Looking to the compromise between the petitioners and the complainant/ respondent No.4, filing of charge-sheet and the trial of the petitioners would amount to abuse of process of law. This is a case which is covered by the judgment of the Supreme Court in the case of **Narinder Singh vs. State of Punjab** reported in **(2014) 6 SCC** in paragraphs 27 and 29.2 to 29.7:

'27. At this juncture, we would also like to add that the timing of settlement would also play a crucial role. If the settlement is arrived at immediately after the alleged commission of offence when the matter is still under investigation, the High Court may be somewhat liberal in accepting the settlement and quashing the proceedings/investigation. Of course, it would be after looking into the attendant circumstances as narrated in the previous para. Likewise, when challan is submitted but the charge has not been framed, the High Court may exercise its discretionary jurisdiction. However, at this stage, as mentioned above, since the report of the I.O. under [Section 173, Cr.P.C.](#) is also placed before the Court it would become the bounden duty of the Court to go into the said report and the evidence collected, particularly the medical evidence relating to injury etc. sustained by the victim. This aspect, however, would be examined along with another important consideration, namely, in view of settlement between the parties, whether it would be unfair or contrary to interest of justice to continue with the criminal proceedings and whether possibility of conviction is

remote and bleak. If the Court finds the answer to this question in affirmative, then also such a case would be a fit case for the High Court to give its stamp of approval to the compromise arrived at between the parties, inasmuch as in such cases no useful purpose would be served in carrying out the criminal proceedings which in all likelihood would end in acquittal, in any case.

29.2 When the parties have reached the settlement and on that basis petition for quashing the criminal proceedings is filed, the guiding factor in such cases would be to secure:

- (i) ends of justice, or
- (ii) to prevent abuse of the process of any Court.

While exercising the power the High Court is to form an opinion on either of the aforesaid two objectives.

29.3 Such a power is not to be exercised in those prosecutions which involve heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. Such offences are not private in nature and have a serious impact on society. Similarly, for the offences alleged to have been committed under special statute like the [Prevention of Corruption Act](#) or the offences committed by Public Servants while working in that capacity are not to be quashed merely on the basis of compromise between the victim and the offender.

29.4 On the other hand, those criminal cases having overwhelmingly and pre-dominantly civil character, particularly those arising out of commercial transactions or arising out of matrimonial relationship or family disputes should be quashed when the parties have resolved their entire disputes among themselves.

29.5 While exercising its powers, the High Court is to examine as to whether the possibility of conviction is remote and bleak and continuation of criminal cases would put the accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal cases.

29.6 Offences under [Section 307](#) IPC would fall in the category of heinous and serious offences and therefore are to be generally treated as crime against the society and not against the individual alone. However, the High Court would not rest its decision merely because there is a mention of [Section 307](#) IPC in the FIR or the charge is framed under this provision. It would be open to the High Court to examine as to whether incorporation of [Section 307](#) IPC is there for the sake of it or the prosecution has collected sufficient evidence, which if proved, would lead to proving the charge under [Section 307](#) IPC. For this purpose, it would be open to the High Court to go by the nature of injury sustained, whether such injury is inflicted on the vital/delegate parts of the body, nature of weapons used etc. Medical report in respect of injuries suffered by the victim can generally be the guiding factor. On the basis of this prima facie analysis, the High Court can examine as to whether there is a strong possibility of conviction or the chances of conviction are remote and bleak. In the former case it can refuse to accept the settlement and quash the criminal proceedings whereas in the later case it would be permissible for the High Court to accept the plea compounding the offence based on complete settlement between the parties. At this stage, the Court can also be swayed by the fact that the settlement between the parties is going to result in harmony between them which may improve their future relationship.

29.7 While deciding whether to exercise its power under [Section 482](#) of the Code or not, timings of settlement play a crucial role. Those cases where the settlement is arrived at

immediately after the alleged commission of offence and the matter is still under investigation, the High Court may be liberal in accepting the settlement to quash the criminal proceedings/investigation. It is because of the reason that at this stage the investigation is still on and even the charge sheet has not been filed. Likewise, those cases where the charge is framed but the evidence is yet to start or the evidence is still at infancy stage, the High Court can show benevolence in exercising its powers favourably, but after prima facie assessment of the circumstances/material mentioned above. On the other hand, where the prosecution evidence is almost complete or after the conclusion of the evidence the matter is at the stage of argument, normally the High Court should refrain from exercising its power under [Section 482](#) of the Code, as in such cases the trial court would be in a position to decide the case finally on merits and to come a conclusion as to whether the offence under [Section 307](#) IPC is committed or not. Similarly, in those cases where the conviction is already recorded by the trial court and the matter is at the appellate stage before the High Court, mere compromise between the parties would not be a ground to accept the same resulting in acquittal of the offender who has already been convicted by the trial court. Here charge is proved under [Section 307](#) IPC and conviction is already recorded of a heinous crime and, therefore, there is no question of sparing a convict found guilty of such a crime.'

3. Learned State counsel has opposed the grounds raised in the petition and the submissions made on behalf of the petitioners. It is submitted that the case is still under investigation and the petitioners shall have the opportunity to raise the grounds raised in this petition as defence before the trial Court. Hence, the petition be dismissed.

4. Learned counsel for respondent No.4 has supported the submissions

made by counsel for the petitioners and has submitted that respondent No.4/ the complainant, is since from the very inception of the criminal case against the registration of criminal case against the petitioners and has willingly compromised with the petitioners.

5. Perused the record.

6. The First Information Report has been lodged on 23.5.2014 against the petitioners. Just after two days, respondent No.4/ complainant filed an application before the Superintendent of Police, Raigarh stating that a false report has been lodged against the petitioners on his name and he was compelled to sign the FIR by the concerned persons and one affidavit was also sworn on dated 24.5.2014 stating that he has been used by some persons to lodge a false FIR against the petitioners.

7. Respondent No.4 was examined by the doctor and the MLC report is submitted with the reply given by the State, which discloses that, respondent No.4 suffered only three abrasions and all the injuries were reported to be of simple in nature.

8. In the statement before the Registry Officer, respondent No.4 – Lav Kumar Banjara has stated that he has compromised with the petitioners without any fear, favour or influence and amicable relations have been established between the parties. Hence, he is willing to withdraw the proceedings against the petitioners.

9. Considering the statement of respondent No.4 and the applications submitted by him before the police authorities alongwith an affidavit, denying

lodging of FIR by him against the petitioners and that the injuries caused to him in this incident do not make out any offence of attempt to murder.

10. Considering the ratio laid down in **Narinder Singh vs. State of Punjab** (supra), this appears to be a fit case where interference can be made by exercising inherent powers under Section 482 of the Code of Criminal Procedure. Hence, this petition is allowed at the motion stage. The criminal proceedings initiated against the petitioners on the basis of FIR registered on 23.5.2014 in Crime No. 192 of 2014 at Police Station Gharghora, District Raigarh are hereby quashed.

11. Accordingly, this petition stands disposed off.

Sd/-

(Rajendra Chandra Singh Samant)
Judge