HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 822 of 2017

- Rajesh Kumar Sarathi S/o Late Chowki Ram Sarthi, Aged About 29 Years R/o Masaniya Kala, Police Station Sakti, District Janjgir Champa, Chhattisgarh.

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Station House Officer, Police Station Sakti, District Janjgir Champa, Chhattisgarh.

2. Jamuna Bai Sarathi W/o Rajesh Kumar Sarathi, Aged About 26 Years R/o Masaniya Kala, Tahsil & Police Station Sakti, District Janjgir Champa, Chhattisgarh.

---- Respondents

For Petitioner	:	Shri Kamlesh Kumar Pandey, Advocate.
For Respondent/State	:	Shri Neeraj Sharma, Dy. Govt. Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

11/09/2017

Heard.

1. This petition is brought under Section 482 of Cr.P.C. with a prayer to quash the criminal proceeding against the petitioner.

2. On a complaint made by the respondent No.2/complainant, petitioner is being prosecuted for offence under Section 324 of IPC before the Court of Judicial Magistrate First Class, Sakti District-Janjgir-Champa in Criminal Case No.724/2015.

3. Petitioner and respondent No.2/complainant are husband and wife. It is submitted that both the parties have compromised and resolved there disputes amicably, thereafter, they are living together happily and an

application was moved before the trial Court for composition of offence, but the same has been rejected as the offence under Section 324 of IPC is not compoundable. Hence, this petition.

4. Learned counsel for the State has opposed the petition and argument submitted on behalf of the petitioner.

5. Heard both the parties and perused the documents on record.

6. Respondent No.2/complainant-Jamuna Bai has stated on oath before the Additional Registrar Judicial about the terms of compromise and that she had consented for compromise without any fear, favour or influence. Hence, she wishes that the criminal proceedings against the petitioners be withdrawn.

7. Consequent to above developments, it appears that the fate of criminal case is already decided and therefore continuation of such criminal proceeding against the petitioners would amount to abuse of process of law. 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

1. (2012) 10 SCC 303

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 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."

8. 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 petitioners.

9. Accordingly, the petition is allowed at the motion stage itself. The criminal proceeding pending against the petitioner before the Court of Judicial Magistrate First Class, Sakti in the form of Criminal Case No.724/2015 is hereby quashed.

10. The petition is, accordingly disposed off.

Sd/-
(**Rajendra Chandra Singh Samant**)
JUDGE

Nisha