

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 1040 of 2017

1. Baleshwar Prasad S/o Yashwant Singh, Aged About 50 Years R/o Village Rudra, Police Station Anda, District Durg Chhattisgarh.
2. Yashwant Singh Sahu, S/o Bhel Singh Sahu, Aged About 75 Years R/o Village Rudra, Police Station Anda, District Durg Chhattisgarh.

---- Petitioners

Versus

1. State of Chhattisgarh through the Station House Officer, Police Station Durg, District Durg Chhattisgarh.
2. Sevak Ram Sahu, S/o Shri Rohit Lal Sahu, Aged About 43 Years R/o Village Matwari, Police Station Anda, District Durg Chhattisgarh. ---

Respondents

For the applicant	: Mr. Tarun Dadsena, Advocate
For the State/ R-1	: Mr. Anupam Dubey, Dy.Govt. Advocate
For respondent No.2	: Mr. Abhishek Pandey, Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

25.10.2017

1. This revision is against the order dated 20.01.2017 passed by the Court of Judicial Magistrate First Class, Durg wherein the petition filed by the complainant as well as the accused under subsections of (1) & (2) of section 320 of the Code of Criminal Procedure has been dismissed on the ground that the offences are non-compoundable as few of sections i.e., 409, 467, 468, 471 and 120-B of IPC are non-compoundable.
2. Brief facts of the case are that respondent No.2 Sewak Ram son of Rohitlal Sahu had made a complaint that the land belonged to his grand mother was acquired for Railway line by Central Government. It was further complained that in lieu of the land acquired, one of the members of the family was to be given employment in Bhilia Steel Plant but

subsequently no employment was ever given. Thereafter, his grand-mother Telia wife of Purushottam died and the father of complainant Rohit Lal Sahu also died. It was alleged that on the basis of acquisition certificate, one Baleshwar Sahu, son of Yashwant Singh has obtained the job on the basis of false certificate, therefore the necessary action may be taken. On the basis of such complaint, after investigation, charge sheet was filed in the year 2013 i.e., on 18.01.2013. While the case was pending, the application was filed under sub-sections (1) & (2) of section 320 of Cr.P.C., for compounding of the offence before the trial Court. The learned JMFC dismissed the said application on the ground that few of the offences are non-compoundable and therefore, proceeded in the matter further.

3. Learned counsel for the petitioner would submit that both the petitioners and respondent belonged to the same family and even the vigilance cell of the BSP has not complained anything about such obtaining employment by fraud. It is further contended that certain misunderstanding was there between the family members, therefore, the complaint was filed and subsequently the misunderstanding has been removed between the parties and compromise has been effected, Therefore, in all probability, it would be a futile exercise to continue with the proceedings as the complainant himself has compromised the issue.
4. Counsel for respondent Sewak Ram Sahu would submit that the petitioner and respondent belonged to the same family and there has been some confusion or misunderstanding occurred, therefore, the report was made and now the

complainant do not want to continue the proceedings of the case against the petitioners.

5. The record would show that the statement of complainant Sewak Ram Sahu was recorded before the Additional Registrar (Judicial) wherein he stated that he has entered compromise without any fear or pressure and he do not want to continue the proceedings of Crime No.734 of 2011 against the petitioners Baleshwar Prasad and Yashwant Singh Sahu registered at Police Station Anda- Durg, Distt. Durg (C.G) and further proceedings of Criminal Case No.124/ 2013 (174/2013) pending before the trial Court. The petitioners have also made statement that the compromise has been effected between them and the complainant.
6. The Hon'ble Supreme Court in ***Gian Singh V. State of Punjab and another (2012) 10 SCC 303*** 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 criminal cases having overwhelmingly and predominatingly civil flavour 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.

62. In view of the above, it cannot be said that B.S. Joshi, Nikhil Merchant and Manoj Sharma were not correctly decided. We answer the reference accordingly. Let these matters be now listed before the Bench(es) concerned”

7. It is not in dispute that both the complainant and accused belonged to the same family and the issue relates to grant of service in lieu of the land acquired by the BSP. It is also

not in dispute that that complainant Sewak Ram Sahu has himself has appeared before the Court and stated that he do not want to continue with the proceedings against the petitioners and he has entered into compromise without fear or pressure.

8. In view of the principles laid down by the Supreme Court in *Gian Singh V. State of Punjab (2012) 10 SCC 303* and taking into consideration the gravity of the offence which appears to have arisen out of providing employment to one of the family members in lieu of the land acquired and since the dispute appears to be of private nature in between the same family members and in all probability continuation of the proceeding may lead to protracting the trial and abuse of process as chances of conviction are too bleak and the offence would not have a serious impact on the society, therefore, in the opinion of this Court it would be unfair and contrary to the interest of justice to continue with the criminal proceedings. Therefore, the Court is of the opinion that criminal proceedings against the petitioners be quashed.
9. In the result, this petition is allowed and the impugned order dated 20.01.2017 passed by the JMFC, Durg is set aside. Consequently, the proceedings of Criminal Case No. 124/2013 (174/2013) pending before the JMFC, Durg and the proceedings of Crime No. 734/2011 registered at P.S. Durg against the petitioners are quashed. The petitioners are acquitted of the charges.

**Sd/-
GOUTAM BHADURI
JUDGE**