

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 1226 of 2017

Rupesh Uraon S/o Barat Ram Uraon, Aged About 35 Years R/o
Madwa, Police Station Chandrapur, District Janjgir Champa
Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Station House Officer, Police
Station Chandrapur, District Janjgir Champa Chhattisgarh
2. Dhurai Bai D/o Pardeshi Mehar, Aged About 21 Years R/o
Madwa, Police Station Chandrapur, District Janjgir Champa
Chhattisgarh

---- Respondents

For petitioner- Shri Kamlesh Kumar Pandey, Advocate.
For State- Shri Ashish Shukla, G.A.
For respondent No.2– Shri Vimal Tondey, Advocate.

Hon'ble Shri Justice Goutam Bhaduri

Order

01/11/2017

Heard.

1. Instant petition is for quashing Criminal Case No.152/2017 pending before the JMFC, Dabhra, District Janjgir-Champa for offence under section 354 IPC. While case was pending an application was filed under Section 320 sub-section 2 of Cr.P.C. on 10/08/2017 which was dismissed by the Judicial Magistrate holding it that offence sought to be compounded is not compoundable as such it was dismissed.
2. Facts would reveal that respondent No.2/complainant has filed a complaint on 21/03/2017 that the petitioner herein in order to outrage her modesty caught hold of her hand. After investigation offence under section 354 IPC was registered and charge sheet was filed. During pendency of this criminal case an application was filed by the accused that the complainant has compounded the offence and she do not want to continue with the proceeding, however same was dismissed.

3. Learned counsel for the petitioner would submit that in the instant case the offence having been compounded, no purpose would be served in protracting the trial, petitioner is lodged in jail since 23/03/2017 considerable time more than 7 months have been passed, therefore the petitioner may be acquitted of the charge.

4. Learned counsel for respondent No.2 do not object to the fact that compromise has been affected and accordingly she do not want any further action against the petitioner, therefore criminal case may be quashed.

5. Proposition of 482 Cr.P.C. has been considered by the Supreme Court in **Parbatbhai Aahir @ Parbatbhai Bhimsinhbhai Karmur & Ors.** in **SLP Criminal 9549 of 2016** wherein their Lordship at para-10 has held as under:-

“10. Section 482 is prefaced with an overriding provision. The statute saves the inherent power of the High Court, as a superior court, to make such orders as are necessary (i) to prevent an abuse of the process of any court; or (ii) otherwise to secure the ends of justice. In **Gian Singh** (supra) a bench of three learned Judges of this Court adverted to the body of precedent on the subject and laid down guiding principles which the High Court should consider in determining as to whether to quash an FIR or complaint in the exercise of the inherent jurisdiction. The considerations which must weigh with the High Court are:

“61...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 FIR may be exercised where the offender and the 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 a serious impact on society. Similarly, any compromise between the victim and the offender in relation to the offences under special statutes like the 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 a 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, the High Court may quash the criminal proceedings if in its view, because of the compromise between the offender and the victim, the possibility of conviction is remote and bleak and continuation of the criminal case would put the 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 the wrongdoer and whether to secure the ends of justice, it is appropriate that the criminal case is put to an end and if the answer to the above question(s) is in the affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding."

6. Court has laid down the following principle at para 15:-

"15. The broad principles which emerge from the precedents on the subject, may be summarised in the following propositions :

- (i) Section 482 preserves the inherent powers of the High Court to prevent an abuse of the process of any court or to secure the ends of justice. The provision does not confer new powers. It only recognises and preserves powers which inhere in the High Court;
- (ii) The invocation of the jurisdiction of the High Court to quash a First Information Report or a criminal proceeding on the ground that a settlement has been arrived at between the offender and the victim is not the same as the invocation of jurisdiction for the purpose of compounding an offence. While compounding an offence, the power of the court is governed by the provisions of Section 320 of the Code of Criminal Procedure, 1973. The power to quash under Section 482 is attracted even if the offence is non-compoundable.
- (iii) In forming an opinion whether a criminal proceeding or complaint should be quashed in exercise of its jurisdiction under Section 482, the High Court must evaluate whether the ends of justice would justify the exercise of the inherent power;
- (iv) While the inherent power of the High Court has a wide ambit and plenitude it has to be exercised; (i) to secure the ends of justice or (ii) to prevent an abuse of the process of any court;
- (v) The decision as to whether a complaint or First Information Report should be quashed on the ground that the offender and victim have settled the dispute, revolves ultimately on the facts and circumstances of each case and no exhaustive elaboration of principles can be formulated;
- (vi) In the exercise of the power under Section 482 and while dealing with a plea that the dispute has been settled, the High Court must have due regard to the nature and gravity of the offence. Heinous and serious offences involving mental depravity or offences such as murder, rape and dacoity cannot appropriately be quashed though the victim or the family of the victim have settled the dispute. Such offences are, truly speaking, not private in nature but have a serious impact upon society. The decision to continue with the trial in such cases is founded on the overriding element of public interest in punishing persons for serious offences;
- (vii) As distinguished from serious offences, there may be criminal cases which have an overwhelming or predominant element of a civil dispute. They stand on a distinct footing in so far as the exercise of the inherent power to quash is concerned;
- (viii) Criminal cases involving offences which arise from commercial, financial, mercantile, partnership or similar transactions with an essentially civil flavour may in appropriate situations fall for quashing where parties have settled the dispute;
- (ix) In such a case, the High Court may quash the criminal proceeding if in view of the compromise between the disputants, the possibility of a conviction is remote and the continuation of a criminal proceeding would cause oppression and prejudice; and
- (x) There is yet an exception to the principle set out in propositions (viii) and (ix) above. Economic offences involving the financial and economic well-being of the state have implications which lie beyond the domain of a mere dispute between private disputants. The High Court would be justified in declining to quash where the offender is involved in an activity akin to a financial or economic fraud or misdemeanour. The consequences of the act complained of upon the financial or economic system will weigh in the balance.

7. In the case in hand it would show that the petitioner is in jail since 23/03/2017 and the statement recorded before the Additional Registrar (Judicial) would show that complainant has stated that she do not want any action against the petitioner in Criminal Case No.152/2017 which has arisen out of Crime No.134/2017 as the settlement has been arrived at. Considering the statement of the victim which shows that no purpose would be served in continuing the trial. In any case witness would not support case of the prosecution and further taking into nature of allegation which was made in the charge sheet and the principle laid as above, instant petition is allowed. Consequently, Criminal Case No.152/2017 pending before JMFC, Dabhra, District Janjgir-Champa under Section 354 IPC is quashed. Petitioner is acquitted of the charges.

Sd/-

(Goutam Bhaduri)

JUDGE