

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 1647 of 2017**

- Chandrashekhar Dhruv @ Chandu S/o Late Pardeshi Dhruv, Aged About 29 Years R/o In Front Of Khanuja Bhawan, Naharpara, Station Road, Raipur, Police Station Ganj, Tahsil And District Raipur, Chhattisgarh

---- **Petitioner****Versus**

1. State of Chhattisgarh Through The Station House Officer, Police Station Ganj, District Raipur, Chhattisgarh
2. Imran Ali @ Karim, S/o Late Munavvar Ali, Aged About 27 Years R/o Irani Dera, Pandri, Police Station Civil Lines, Tahsil And District Raipur, Chhattisgarh

---- **Respondents**

For Petitioner	:	Shri Rajeev Shrivastava, Advocate with Shri B.M. Roy, Advocate
For Respondent No.1	:	Ms. Astha Shukla, PL for the State
For Respondent No.2	:	Shri Surraj Khan, Advocate

Hon'ble Shri Justice Goutam Bhaduri**Order On Board****22/02/2018**

1. The present petition is against the order dated 10.11.2017, whereby the JMFC, Raipur has partly allowed the application filed under Section 320 (2) of the Cr.P.C. and has discharged the accused under Sections 294, 323 & 506 of the I.P.C., however, the prayer to compound the offence under Section 365 of the I.P.C. has been dismissed.
2. Learned counsel for the petitioner would submit that the case is arising out of a report made by complainant/respondent No.2 over a road rage, wherein simple issue has been inflated to the incident of offence under Section 365 of the I.P.C. He would further submit that one car dashed the other, as such

the car which dashed that of the complainant, he was subjected to abuse and assault and was kept in confinement by the petitioner. He would further submit that neither the petitioner has any criminal background, nor has any past antecedent of the like nature and the simple case has been inflated to charge the petitioner with a offence under Section 365 IPC, therefore, the same may be compounded.

3. Learned counsel for respondent No.2 do not object the same and submit that the parties have amicably settled the dispute and no purpose would be served in keeping the prosecution alive as the parties have amicably settled the issue.
4. During the course of hearing both the parties i.e. the petitioner and the complainant/respondent No.2 are present before the Court. The complainant Imran Ali @ Karim, who has been identified by his counsel Shri Surfaj Khan, Advocate, has submitted that he do not want to prosecute his complaint further as it was a case of simple road rage and the said statement has been cross-checked by the State counsel.
5. 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

¹ (2012) 10 SCC 303

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.

6. Further, in case of ***Parbatbhai Aahir @ Parbatbhai Bhimsinhbhai Karmur & Ors.*** in criminal Appeal No.1723 of 2017 their Lordship again reiterated the view taken in case of ***Gian Singh*** (supra) and has laid down the following propositions :

“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. The case as it happened because of the fact that some dash occurred in between two cars because of a simple incident of road rage and offence under Section 365 IPC was registered. The Court below has already compounded the offence under Sections 294, 323 & 506 of the I.P.C. Considering the same, it appears that continuation of the prosecution would be useless as the complainant may not support the case of the prosecution and the nature of complaint appears to be in between two parties, therefore, taking into such fact and the submission made by the parties, I am inclined to allow this petition. Accordingly, the order dated 10.11.2017 is set aside and the proceedings in criminal case No.13232/2014 pending before the JMFC, Raipur for the offence under Section 365 IPC against the petitioner is quashed.
8. Accordingly, the petition is allowed and the proceedings in criminal case No.13232/14 for the offence under Section 365 IPC is hereby quashed. The petitioner is acquitted of the charge leveled against him.

Sd/-

Goutam Bhaduri
Judge

Ashu