

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CR.M.P. No. 229 of 2018**

Amey Yadav, S/o. Shri Harendra Kumar Yadav, Aged About 27 Years,
R/o. New Panvel, Navi Mumbai, P.S. Khandeshwar, Distt. Mumbai
Maharashtra.

---- Petitioner**Versus**

1. State Of Chhattisgarh, Through P.S. Ganj, Raipur, District Raipur, Chhattisgarh.
2. Shri Aditya Shukla, S/o. Shri Arun Kumar Shukla, Aged About 34 Years, R/o. Station Road, Near Punjabi Gurudwara, Sanjay Gandhi Chowk, P.S. Ganj, Raipur, District Raipur, Chhattisgarh.

---- Respondents

For Petitioner	:	Mr. Kashif Shakeel, Advocate
For Respondent No.1	:	Mr. Adhiraj Surana, Dy. Govt. Advocate
For Respondent No.2	:	Mr. Vivek Kumar Shrivastava, Advocate

Hon'ble Shri Justice Goutam Bhaduri**Order On Board****16.02.2018**

1. The instant petition is against the order dated 04.12.2017 whereby the application under Section 320 of Cr.P.C. for compounding of offence has been partly allowed.
2. As per the case of the prosecution, a report was lodged by the complainant Aditya Shukla that he came in contact with the petitioner Amey Yadav and with an assurance to provide him Gas Agency & Petrol Pump Agency in between the period from January, 2013 to 19th December, 2015 an amount of Rs.50 Lakhs was paid by the complainant to the accused. Subsequently, it was revealed that the petitioner has personified himself to be an officer of HPCL and different

documents which were produced when shown about the grant of Agency to the different persons were found to be fake. Eventually, when the report was lodged, the applicant was arrested and after the investigation, the charge sheet was filed.

3. Learned counsel for the petitioner would submit that before framing of the charge, compromise agreement was effected on behalf of mother of the accused Smt. Malti Yadav, W/o. Harendra Kumar Yadav and an amount of Rs.25 Lakhs have been agreed to be paid, out of which Rs.10 Lakhs have been paid while rest of the amount would be paid by way of cheque in installments. Therefore, under the circumstances, since the issue has already been settled and the dispute was in the private nature, the FIR may be quashed and the petitioner may be acquitted of the charges.
4. Learned counsel for the respondent No.2 is present with the respondent No.2/ complainant Aditya Shukla. The complainant is also identified by the counsel. On having been cross checked by the State counsel, he submits that Rs.10 Lakhs have been paid while Rs.15 Lakhs would be paid by way of cheque as per the agreement entered in between the mother of the accused & complainant. He submits under the circumstances, he do not want to prosecute his complaint further as compromise has been arrived at in between the parties. The mother of the petitioner Smt. Malti Yadav also present in the Court. She also affirms the fact that she has entered into compromise with the complainant and has paid Rs.10 Lakhs and further would be paid Rs.15 Lakhs by way of cheque, therefore, the charges leveled against the petitioner may be quashed.
5. Perused the agreement, which is placed on record wherein the schedule of payment has been shown and it has been stated that the

entire settlement has been arrived at for an amount of Rs.25 Lakhs. The complainant also do not dispute the fact about the settlement arrived at in between the parties.

6. The Hon'ble Supreme Court in **Gian Singh v. State of Punjab & Another¹** 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

1 (2012) 10 SCC 303

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.

7. Further, in case of ***Parbatbhai Aahir @ Parbatbhai Bhimsinhbhai Karmur & Ors. v. State of Gujarat & Ors.***² 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;

2 (2017) 9 SCC 641

(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.

8. Considering the statement of the victim Aditya Shukla who is present in the Court that he has settled the dispute and he do not want to prosecute his complaint and the FIR and consequently the criminal case and he affirms the agreement which is filed along with this petition. Considering such statement and the fact that the dispute appears to be private in nature to the complainant itself and applying the aforesaid principles, it would be futile to go into prosecution as no

evidence is on record at the end of the trial.

9. In the result, in the interest of justice, I am inclined to allow this petition and quash the proceeding of Crime No.368/2016 for the offence under Section 467, 468, 471, 120-B read with 34 of I.P.C. in respect of the petitioner in Criminal Case No.6709/2017, which is pending before the J.M.F.C. Raipur.
10. The order would reveal that the proceeding under Section 420 of I.P.C. has already been quashed by the trial Court by its order dated 04.12.2017; therefore, no separate order is required further.
11. Accordingly, the petition is allowed and the proceedings with respect to the petitioner namely Amey Yadav before the Court below in Criminal Case No.6709/2017 under Crime No.368/2016 for the offence under Section 467, 468, 471, 120-B read with 34 of I.P.C. is hereby quashed. The petitioner is acquitted of the charges.

Sd/-
(Goutam Bhaduri)
Judge