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HIGH COURT OF CHHATTISGARH, BILASPUR**CR.M.P. No. 506 of 2018**

1. Amay Yadav, S/o. H.K. Yadav, Aged About 26 Years, R/o. Plot No. 4, Road No.9, Sector 12, New Panvel, District Raigarh, Maharastra
2. Harendra Kumar Yadav, S/o. Omkar Yadav, Aged About 67 Years, R/o. Plot No.4, Road No.9, Sector 12, New Panvel, District Raigarh Maharastra

---- Petitioners**Versus**

1. State Of Chhattisgarh, Through Police Station Kotwali, Bastar, District Bastar, Chhattisgarh.
2. Neeraj Power, S/o. Prakash Pawar, Aged About 35 Years, R/o. Nayapara, Jagdalpur, District Bastar, Chhattisgarh

---- Respondents

For Petitioners	:	Mr. Manoj Paranjpe, Advocate
For Respondent No.1	:	Mr. Ashish Shukla, Dy. A.G.
For Respondent No.2	:	Mr. Avinash K. Mishra, Advocate

Hon'ble Shri Justice Goutam Bhaduri**Order On Board****27.03.2018**

1. This is a petition under Section 482 of Cr.P.C. wherein quashment has been sought for in respect of the petitioner No.1 Amay Yadav and petitioner No.2 Harendra Kumar Yadav for the offences under Section 420, 467, 468, 471 read with Section 34 of Indian Penal Code pending against the petitioners before the Court of Judicial Magistrate First Class, Jagdalpur.
2. As per the case of the prosecution, a report was lodged by the complainant Neeraj Pawar, respondent No.2 herein, that in order to provide him a Gas Agency of H.P.C.L. at the instance of one Rajeev Bajpai an amount of Rs.8 Lakhs has been given to Amay Yadav who

claims to be an officer of H.P.C.L. of Navi Mumbai. It is stated that Rajeev Bajpai & Amay Yadav informed the complainant that all the process of grant of license has been completed and license has to be issued by post and one Yuvraj Sakare of H.P.C.L. has given a copy of the agreement. Thereafter, further amount was deposited at the instance of the accused and different amounts were paid in installments to the different dates and later it revealed that fraud was played on the complainant and total amount of Rs.22,75,000/- was paid for which an FIR was lodged on 25.04.2016.

3. Learned counsel for the petitioners Amay Yadav & Harendra Kumar Yadav submits that subsequently during the course of trial, an agreement was entered into in between the complainant and the accused and it was decided that an amount of Rs.10 Lakhs would be paid by Demand Draft to the complainant of I.D.B.I. Bank; thereby, the complainant do not want any prosecution or action against the petitioners herein. He further submits that in respect of other accused, the complainant may pursue the remedy but so far as the present petitioners are concerned since the settlement has been arrived at, therefore, the criminal case against the petitioners herein be quashed.
4. The complainant Neeraj Pawar is present alongwith his Advocate. The Demand Draft No.014857 of Rs.10 Lakhs has been handed over to them, they have verified and accepted the same. The submission of the complainant was further cross checked by the State counsel and he would submit that the complainant on having received an amount of Rs.10 Lakhs do not want to pursue any prosecution against the present petitioners but reserves his right to pursue his claim against the other accused. The accused Amay Yadav has been brought from the jail, he is present alongwith his father Harendra Kumar Yadav &

mother Malti Yadav. The complainant accepted to receive an amount of Rs.10 Lakhs, which has been given by Draft No.014857.

5. 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 from commercial, financial, mercantile, civil, partnership or such like transactions or the offences arising out of

1 (2012) 10 SCC 303

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. 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;

(ii) The invocation of the jurisdiction of the High Court to

² (2017) 9 SCC 641

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. Considering the submission made on behalf of the complainant, it appears that it would be a futile effort to continue with the criminal case as in any case the complainant may not depose against the present petitioners namely Amay Yadav & Harendra Kumar Yadav. The complainant further submits that he do not want to prosecute his grievance against the present petitioners. Considering the statement and the fact that the dispute appears to be private in nature in between the complainant and petitioners and no purpose would be served to

prolong the criminal case against the petitioners. Therefore, applying the aforesaid principles, it is directed that the Criminal Case No.106/2017, which is arising out of a Crime No.125/2016 registered at Police Station Kotwali, District Bastar for the offence under Section 420, 467, 468, 471 read with Section 34 of I.P.C. pending before the J.M.F.C. Jagdalpur in respect of the petitioners is quashed.

8. In a result, the petition is allowed and the proceedings with respect to the petitioners namely Amay Yadav & Harendra Kumar Yadav before the Judicial Magistrate First Class, Jagdalpur, in Criminal Case No.106/2017 under Crime No.125/2016 registered at Police Station Kotwali, Bastar for the offence under Sections 420, 467, 468, 471 read with Section 34 of I.P.C. is hereby quashed. The petitioners are acquitted of the charges. This Court has not expressed any opinion or finding with respect to the involvement of role of other accused. The same may be adjudicated at different forum & trial, if any. The adjudication of this petition and discharge is solely confined to the accusation with respect to the present petitioners alone.

Sd/-
(Goutam Bhaduri)
Judge