

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 468 of 2018**

- Manoj Sen S/o Late Shri Ramkrishan Sen Aged About 28 Years R/o Village Sakri, Police Station Baloda Bazar, Civil And Revenue District Baloda Bazar, Chhattisgarh

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

1. State of Chhattisgarh Through Station House Officer, Karhibazar, Baloda Bazar, District Baloda Bazar, Chhattisgarh., District : Balodabazar-Bhathapara, Chhattisgarh
2. Smt. Prembai W/o Shri Sukhdev Sen Aged About 40 Years R/o Village Karhibazar, Baloda Bazar, Police Station Karhibazar Civil And Revenue District Baloda Bazar, Chhattisgarh., District : Balodabazar-Bhathapara, Chhattisgarh

---- **Respondents**

For Petitioner	:	Ms. Jyoti Rathore, Advocate
For Respondent No.1-State:	:	Ms. Madhunisha Singh, PL for the State

Hon'ble Shri Justice Goutam Bhaduri**Order On Board****12/04/2018**

1. The present petition is against the order dated 07.02.2018, wherein an application filed by the petitioner under Section 320 (1) & (2) Cr.P.C. to compound the offence under Section 354 & 451 IPC in criminal case No.649/2013 pending before the CJM, Baloda Bazar was dismissed.
2. As per the prosecution case, a report was made by the victim that on 19.12.2010 when the petitioner found respondent No.2 alone, caught hold of her and dragged her to ground to outrage her modesty and on report charge-sheet was filed.
3. Learned counsel for the petitioner submits that respondent No.2 Smt. Prem

Bai, who is present before the Court do not want to prosecute her report further on the ground that when the incident happened, the appellant was quite young and further that the compromise has been effected in between the parties which is filed as Annexure P-4. She would further submit that the petitioner and respondent No.2 both are related to each other, therefore, complainant do not want to continue with the proceedings of criminal case No.649/2013 under Section 354 & 451 IPC pending before the CJM, Baloda Bazar.

4. 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 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 predominately civil flavour stand on different footing for the purposes of quashing, particularly the offences

¹ (2012) 10 SCC 303

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.

5. 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.”

6. During the course of hearing before this Court, respondent No.2/complainant, who is present before the Court, is identified by the counsel on the basis of the Adhar Card and further has been cross-checked by the State counsel as to veracity of the averments made and after verification of the complainant/respondent No.2 it is contended that she is ready and willing to compromise the case and do not want to further prosecute.

7. Considering the statements made by respondent No.2/complainant, which has been cross-checked by the State counsel that the settlement has been arrived at in between the parties and the complainant do not want to prosecute her complaint bearing crime No.521/2010 and criminal case

No.649/2013 pending before the CJM, Baloda Bazar and applying the aforesaid principles laid down by the Supreme Court, I am of the opinion that the ends of justice would be sub-served if the proceedings pending in criminal case No.649/2013 under Section 354 & 451 IPC pending before the CJM, Baloda Bazar are quashed. Accordingly, the proceedings in Criminal Case No.649/2013 under Section 354 & 451 IPC are quashed. The petitioner is acquitted for the charges leveled against him.

8. The CRMP stands allowed.

Sd/-

Goutam Bhaduri
Judge

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