

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 700 of 2018**

1. Dinesh Chand Dubey S/o Late Shankar Prasad Dubey Aged About 75 Years R/o- Chantidih, Tahsil And District- Bilaspur, Chhattisgarh
2. Ashwani Kumar Dubey S/o Late Brijnath Dubey Aged About 35 Years R/o- Bhagirathi Mandire, Nayapara, P.S. Golbazar- Tahsil And District- Raipur, Chhattisgarh

---- Petitioners**Versus**

1. State of Chhattisgarh Through- Secretary, Home Department Mantralaya, Mahanadi Bhawan, New Raipur, District- Raipur, Chhattisgarh
2. Superintendent of Police Raipur, District- Raipur, Chhattisgarh
3. Station House Officer Police Station Civil Line, Raipur, District- Raipur, Chhattisgarh
4. Dinesh Kumar Pandey S/o Late Rajendra Kumar Pandey Aged About 33 Years R/o- Kailash Bhojnalaya, Sardar Patel Ward Mungeli, District- Mungeli, Chhattisgarh

---- Respondents

For Petitioners	:	Ms. Hamida Siddiqui, Advocate
For Respondents/State	:	Shri Sangharsh Pandey, Dy. GA for the State
For Respondent No.4	:	Shri Anshuman Shrivastava, Advocate

Hon'ble Shri Justice Goutam Bhaduri**Order On Board****11/05/2018**

1. The present petition is for quashing of the FIR No.0743, registered at Police Station, Civil Lines, Raipur, District Raipur (C.G.) for the offence under Sections 420, 467, 468/34 IPC against the petitioners.
2. Facts of the case in brief are that a report was made by Dinesh Kumar Pandey, respondent No.4 that Krishna Kumar Pandey, the original owner of

the land of whom the complainant is the actual legal heir. Krishna Kumar Pandey died in the year 1972, however, revenue records were not corrected and the name of complainant and legal heirs were not mutated in revenue records. So by taking advantage of that, the petitioners got mutated their names by showing the date of death of holder in the year 2015 and thereafter sold the property to different persons. The complainant and the petitioners are the first cousins and thereafter the FIR has been lodged by the complainant on 24.11.2016.

3. The complainant Dinesh Kumar Pandey is also represented. Copy of the FIR bearing No.0743 dated 24.11.2016 filed under Sections 420, 467 & 468/34 IPC is filed as Annexure P-1.
4. Learned counsel for the respondent/complainant submits that the parties have entered into compromise and the complainant do not want to further prosecute his FIR as the accused are also relative and they have settled the issue in between them.
5. Parties were directed to record their statements before the Additional Registrar (Judicial).
6. Perused the statement of Dinesh Kumar Pandey, wherein it is stated that he had lodged complaint against Ashwini Kumar Dubey and Dinesh Chandra Dubey under Sections 420, 467 & 468/34 IPC which was registered as Crime No.743/2016 and subsequently, during the investigation the compromise has been effected and he do not want to further prosecute this complaint.
7. The Hon'ble Supreme Court in **Gian Singh v. State of Punjab & Another**¹ has laid down the following principles :

¹ (2012) 10 SCC 303

“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 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.

8. Further, in case of ***Parbatbhai Aahir @ Parbatbhai Bhimsinhbhai Karmur & Ors.***² 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;

² (2017) 9 SCC 641

- (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.”

9. Considering the fact that the accused and the complainant appears to be related to each other and the complainant has made a statement that he do not want to prosecute his complaint further against the present petitioners and the above principles laid down by the Supreme Court and the dispute is private in nature, I am inclined to quash the FIR bearing No.0743/2016 registered under Sections 420, 467 & 468/34 IPC at Police Station Civil Lines Raipur against the petitioners namely Dinesh Chand Dubey and Ashwani Kumar Dubey.

10. Accordingly, the CRMP stands allowed.

Sd/-

Goutam Bhaduri

Judge

Ashu