

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 647 of 2018

Bhuwan Kumar Sahu S/o Late Jagannanth Sahu Aged About 69 Years R/o Near Sindhi Dharamsala, Gol Bazar Bilaspur C.G. Presently Resided At Near Krishi Upaj Mandi Post Torwa P. S. Torwa Bilaspur District Bilapur Chhattisgarh, District : Bilaspur, Chhattisgarh

--- **Petitioner**

Versus

1. State of Chhattisgarh through the Station House Officer, Police Station Torwa District Bilapur Chhattisgarh,
2. Shailesh Kumar Dixit S/o Sharda Prasad Dixit Aged About 57 Years R/o Near Indra Sahu Tilak Nagar Bilaspur District Bilaspur Chhattisgarh.
3. Rajesh Kumar Dixit S/o Late Shri Sharda Prasad Dixit Aged About 58 Years R/o Near Indra Sahu Tilak Nagar Bilaspur District Bilaspur Chhattisgarh.

--- **Respondent**

For the Petitioners	:	Mr. Pravin Kumar Tulsyan, Adv.
For Respondent No.1/State	:	Mr. Anil Pillai, Dy. A.G.
For Respondent No.2 & 3	:	Mr. Praveen Dhurandhar

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

04.05.2018

1. This petition is against the order dated 17.11.2017 passed by the JMFC, Bilaspur in Criminal Case No.470/2012 whereby the application filed by the parties u/s 320 of Cr.P.C., for compromise has been rejected.
2. As per the prosecution case, the allegation against the petitioner is that he stood as guarantor for opening the account in the bank by making forged signature in the

document of credit account. Thereafter, on a complaint made by one Shailendra Dixit and Rajendra Kumar Dixit (respondents 2 & 3 herein), offence was registered against the petitioner under section 407, 420, 467, 471 read with section 34 of IPC along with other co-accused. After registration of the FIR, Crime was registered bearing Crime No. 281/2005 and thereafter charge-sheet was filed in Criminal Case No. 470/2012.

3. Learned counsel for the petitioner and learned counsel for respondents No. 2 & 3 jointly submit that the parties have entered into compromise and the dispute is purely private in nature and the general public was not affected by such complaint since the settlement has been arrived and on the basis of settlement, Ashish Dixit and Karuna Dixit have also entered into compromise and they were acquitted of charges in the like nature offence by the Coordinate Bench of this Court vide order dated 31.8.2017 passed in CRMP No.196/2017, therefore, the present proceeding against the applicant which is pending before the JMFC, Bilaspur may also be quashed.
4. Learned counsel for respondents 2 & 3 is not able to dispute the fact that the compromise has been arrived at between the parties.
5. Perused the statement of complainants Rajesh Kumar Dixit and Shailendra Kumar Dixit. They have stated that on their complaint offence under section 407, 420, 467, 471 read with section 34 of IPC was registered in Crime No. 281/2005 and

thereafter the proceedings were initiated on filing of the charge-sheet in Criminal Case No. 470/2012 before the JMFC, Bilaspur. It clearly appears that both the complainants have stated that during the pendency of this petition, they have entered compromise without fear and favour and they do not want to continue with this criminal case or prosecute the complaint.

6. Learned counsel appearing on behalf of respondents 2 & 3 do not dispute the fact that the compromise has been effected.
7. With respect to compounding the offence, Hon'ble the Supreme Court in *Gian Singh v. State of Punjab & Another reported in (2012) 10 SCC 303* has laid down the following principles :

“61. The position that emerges from the above discussion can be summarized 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 pre-dominantly 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.* 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 recognizes 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.”

9. Perused the documents and the statements of the parties which were recorded before the Additional Registrar (Judicial). Taking into fact that compromise has been arrived between the complainants and accused without any fear or pressure or undue influence and further taking into the fact that the complainants do not want to prosecute the case against the applicant and further following the principles laid down by the Supreme Court I am inclined to quash the proceeding of Criminal Case No. 470/2012.
10. Consequently, the proceedings of Criminal Case No. 470/2012 pending before JMFC Bilaspur arising out of Crime No. 281/2005 registered at P.S. Torwa, Bilaspur is quashed. The petitioner is acquitted of the charges under sections 407, 420, 467, 471 read with section 34 of IPC.
11. In the result, the petition is allowed.

Sd/-
(GOUTAM BHADURI)
JUDGE