

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CR.M.P. No. 836 of 2018**

1. Smt. Tanu Chandrakar, W/o. Shri Lalit Chandrakar, Aged About 40 Years
2. Lalit Chandrakar, S/o. Shri Laxman Chandrakar, Aged About 45 Years

Both R/o. Quarter No. 44 B, Ruabandha Sector, Bhilai, Tahsil & District Durg, Chhattisgarh, Police Station Vaishali Nagar, Supela, Bhilai, Tahsil & District Durg, Chhattisgarh

---- Petitioners**Versus**

1. State Of Chhattisgarh, Through Station House Incharge, Vaishali Nagar, Supela Bhilai, Tahsil & District Durg, Chhattisgarh
2. Shri Ram Say Sahu, S/o. Shri Mayaram Sahu, Aged About 40 Years, Street No. 22 Block 7B, Sector 1, Bhilai Nagar, Tahsil & District Durg, Chhattisgarh.

---- Respondents

For Petitioners	:	Mr. V.G.Tamaskar, Advocate
For State	:	Mr. Sangharsh Pandey, Dy. G.A.

Hon'ble Shri Justice Goutam Bhaduri**Order On Board****16.05.2018**

Heard

1. The present petition is to quash the FIR registered at Police Station- Supela Chowky Vaishali Nagar in a Crime No.356/2018 for the offence under Section 420 read with Section 34 of Indian Penal Code.
2. The brief facts are that the complainant/ respondent No.2 Ram Say Sahu lodged a report that a land in name of Tanu Chandrakar bearing Khasra No.5897/2 admeasuring 0.02 hectare i.e. 2475 sq.ft. was

purchased by him on 15.03.2010 for a consideration of Rs.5 Lakhs. Subsequently, the names were mutated and Rin-pustika was prepared and after that when the purchaser went to identify the land, the other land was shown. Thereby the report was made that by forgery the wrong land was shown and when the return of amount was asked for, complainant was abused and eventually an agreement was entered whereby it was agreed that till 30.06.2017 the amount would be returned in two installments. Pursuant thereto when two cheques were given they were dishonoured for want of fund. Thereafter, the report was made.

3. Learned counsel for the petitioners submits that the petitioners and the complainant/ respondent No.2 have entered into an agreement as there was some dispute about the possession of the land and eventually it was agreed in between the parties to settle the issue and the amount of sale consideration was agreed to be returned. He submits that the amount has been settled and the entire sale consideration was paid back. Therefore, the complainant do not want to further prosecute his complaint registered under Crime No.356/2018 for the offence under Section 420 read with Section 34 of I.P.C. Accordingly, the FIR may be quashed in view of the ration laid down in AIR 2015 SC 2501.
4. The parties were directed to record their statement before the Additional Registrar (Judicial). The statement of the complainant Ram Say Sahu is perused. He stated that during the investigation, compromise has been arrived at in between the parties without any fear and favour, therefore, he do not want to prosecute the FIR which is registered under Crime No.356/2018 at Police Station Vaishali Nagar, Supela, Bhilai.
5. The reply on behalf of the complainant/ respondent No.2 is also on

record, which follows in similar line that the complainant do not want to prosecute his complaint registered under Crime No.356/2018 for the offence under Section 420 read with Section 34 of I.P.C.

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 submission made by the counsel for the parties and the statement which is recorded before the Additional Registrar (Judicial) and following the principles laid down by the Supreme Court in the above cited cases, I am inclined to quash the FIR registered under Crime No.356/2018 at Police Station- Vaishali Nagar, Supela, Bhilai against the petitioners for the offence under Section 420 read with Section 34 of I.P.C.

9. Accordingly, the petition is allowed. The FIR registered in Crime No.356/2018 at Police Station- Vaishali Nagar, Supela, Bhilai, for the offence under Section 420 read with Section 34 of Indian Penal Code against the petitioners is hereby quashed and they are acquitted of the charges.

Sd/-
(Goutam Bhaduri)
Judge

Ashok