

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 1226 of 2018

Sumeet Kumar Sinha S/o Late Shri Madhusudan Sinha Aged About 45 Years Presently Working as Senior Divisional Materials Manager, Office of The Senior Divisional Materials Manager, South Eastern Railway, Ranchi Division, Ranchi (Jharkhand), P.S. Jagannathpur, Ranchi (Jharkhand) **--- Petitioner**

Versus

1. Parag Budhiya S/o Shri Sanjay Budhiya Aged About 36 Years R/o Tiwari Chawl, Jarabhata, Bilaspur, Chhattisgarh, P.S. Civil Lines, Bilaspur, Tahsil & District Bilaspur, Chhattisgarh,
2. Tinku Bagga S/o Late Shri Surendra Singh Bagga Aged About 43 Years R/o Jarha Bhata, Bilaspur, Chhattisgarh, P.S. Civil Lines, Tahsil & District Bilaspur, Chhattisgarh,
3. State of Chhattisgarh through District Magistrate Bilaspur, District Bilaspur, Chhattisgarh **-- Respondents**

For Petitioner	: Mr. Ajay Dwivedi, Advocate
For Respondent No.1 & 2	: Mr. Shyam Sundarlal Tekchandani,
For the State	: Mr. Sangharsh Pandey, Dy.G.A.

CRMP No. 1260 of 2018

1. Parag Budhiya S/o Shri Sanjay Budhiya Aged About 36 Years R/o Tiwari Chawl, Jarabhatha, Bilaspur Chhattisgarh P. S. Civil Lines, Bilaspur Tahsil & District Bilaspur Chhattisgarh.
2. Tinku Bagga S/o Late Shri Surendra Singh Aged About 43 Years R/o Jarha Bhatha Bilaspur Chhattisgarh P. S. Civil Lines, Bilaspur Tahsil And District Bilaspur Chhattisgarh. **--- Petitioners**

Versus

1. Sumeet Kumar Sinha S/o Late Shri Madhusudan Sinha Aged About 45 Years Presently Working as Senior Divisional Materials Manager, South Eastern Railway, Ranchi Division Ranchi Jharkhand P. S. Jagannathpur Tahsil & District Ranchi Jharkhand, District : Ranchi, Jharkhand
2. State of Chhattisgarh through the District Magistrate, Bilaspur District

Bilaspur Chhattisgarh.

--- Respondents

For Petitioner	: Mr. Shyam Sundarlal Tekchandani
For Respondent No.1 & 2	: Mr. Ajay Dwivedi, Advocate
For the State	: Mr. Sangharsh Pandey, Dy.G.A.

Hon'ble Shri Justice Goutam Bhaduri
Order on Board

24.07.2018

1. Cr.M.P. No.1260/2018 is filed by Parag Budhiya and Tinku Bagga wherein Sumit Kumar Sinha is complainant who filed the complaint before the Police Station Torwa, Bilaspur, Distt. Bilaspur (C.G). On the basis of the said complaint, FIR No.142/2012 was registered for the offence punishable u/ss 186, 353, 452, 294, 506 (B), 332, 34 of IPC. Thereafter, Criminal Case bearing No.694/2013 (*State of Chhattisgarh v. Parag Budhiya and another*) was registered by the Court of learned JMFC, Bilaspur.
2. Likewise Cr.M.P. No.1226/2018 is filed by Sumeet Kumar Sinha wherein respondent No.1 Parag Budhya is complainant who lodged a counter complainant u/s 156(3) of the Code of Criminal Procedure before the Court below which was registered as Complaint Case No.1079/2012. Thereafter pursuant to the direction given by the learned court below, the FIR No.11/2014 was registered at Police Station Torwa

Bilaspur for the offences punishable u/ss 294, 323, 506-B of IPC.

3. Since both the complainant parties jointly preferred compromise and they do not want to continue with the complaint cases against each other, these two petitions are decided together by this common order.
4. Brief facts of the case are that initially a report was lodged by complainant Sumeet Kumar Sinha on 21.05.2012 alleging that he was working as Senior Divisional Manager (Materials), SECR and at about 12.20 p.m., while he was working in his office, the present petitioners forcibly entered into the office and asked to issue tender in their favour. When he refused to do so, the accused Parag Budhiya and Tinku Bagga threatened him of dire consequences, hurled abuses in filthy language and assaulted him and tried to obstruct the complainant in performing his official duty. On such report being made, Crime No.142/2012 was registered at Police Station Torwa, Distt. Bilaspur for the offence u/s 186, 353, 452, 294, 506(b), 332, 34 of IPC. Thereafter, the Charge sheet was filed before the JMFC.
5. Thereafter as a counter blast Parag Budhiya and Tinku Bagga both filed a complaint against Sumeet Kumar Sinha u/s 156(3) Cr.P.C., before the CJM which was registered as Complaint Case No.1969/2014 and in pursuance of the direction given in the said complaint, FIR No.11/2014 was registered at P.S. Torwa, Bilaspur alleging that Sumeet Kumar Sinha and his

colleagues have assaulted and abused Parag Budhya and Tinku Bagga. Threafter the charge sheet was filed in Criminal Case No.1969/2014.

6. Both the complainant parties are present before the Court. Complainant Sumeet Kumar Sinha who lodged FIR No.142/2012 and the complainant Parag Budhiya and Tinku Bagga who filed a complaint case bearing Criminal Case No.1969/2014 which led to registration of FIR No.11/2014 would jointly submit before this Court that both the parties have amicably settled the dispute and expressed their regret to each other and further they do not want to continue with the complaints against each other and also do not want to further prosecute the proceedings of criminal cases pending before the courts below. The compromise deeds executed by both the parties are placed on record which shows that the parties have entered into compromise with mutual understanding and prayers were made there that the complaints/proceedings pending against each other may be quashed.
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. Taking into consideration the nature of complaints made by each of the parties and both the parties have expressed their regret and desire that they do not want to further prosecute the complaint cases against each other and also considering

the submissions by the counsel for the parties and compromise deeds which are placed on records wherein the parties have sought to quash the proceedings against each other, in the opinion of this Court, no purpose would be served in continuing the criminal proceedings against the parties as they have entered into compromise with mutual understanding. Accordingly, the proceedings of Criminal Case No.694/2013 (*State Vs. Parag Budhiya & another*) pending before JMFC, Bilaspur arising out of Crime No.142/2012 registered at P.S.Torwa, Distt. Bilaspur for the offences punishable u/s 353, 186, 332, 452, 294, 506(b) of IPC is quashed. The petitioners Parag Budhiya and Tinku Bagga are acquitted of the charges.

10. Similarly the proceedings of Criminal Case No.1969/2014 (*State v. Sumeet Kumar Sinha*) pending before the JMFC, Bilaspur relating to Crime No.11/2014 registered at P.S. Torwa, Bilaspur for the offence punishable u/s 294, 323, 506-B is also quashed. Petitioner Sumeet Kumar Sinha is acquitted of the charge.
11. In the result, both Cr.M.P.No.1226 of 2018 & Cr.M.P.No. 1260/2018 are allowed.

Sd/-
(GOUTAM BHADURI)
JUDGE