

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 1029 of 2017**

1. Vinod K. Kan Khatri S/o Namaloom, Aged About 50 Years Occupation Chartered Accountant, Office L. K. P. Investment, Office Of C A Taunk Khatri, Above Axis Bank, Third Floor, Vyapaar Vihar, Bilaspur, District Bilaspur (Chhattisgarh).
2. Smt. Pooja V. Khatri W/o Vinod Kaan Khatri, Aged About 42 Years Proprietor M/s Happy Investment, Office L. K. P. Investment, Office Of C A Taunk Khatri, Above Axis Bank, Third Floor, Vyapaar Vihar, Bilaspur, District Bilaspur (Chhattisgarh).

---- Petitioners**Versus**

1. State of Chhattisgarh Through Station House Officer Of Police Station Civil Lines, Bilaspur (Chhattisgarh).
2. Yashwant Tiwari, S/o Late Chandrika Prasad, Aged About 64 Years R/o Bloack - D/2, Flat- 7, First Floor Shriram Towers, Vyapar Vihar, Bilaspur, Chhattisgarh.

---- Respondents

For Petitioners	:	Shri Sunil Otwani & Shri Saurabh Dangi, Advocates
For Respondent No.1/State:	:	Shri Ashish Shukla, Dy. AG for the State
For Respondent No.2	:	Shri Amiyakant Tiwari, Advocate

Hon'ble Shri Justice Goutam Bhaduri**Order On Board****10/01/2018**

1. This petition is filed for quashing the proceedings of a criminal case No.13655/2014, arising out of the earlier criminal complaint No.402/2013.
2. The complainant/R-2 had filed a complaint to the police and thereafter FIR was not registered and a private complaint was preferred alleging that in the year 2003 share trading was done by the complainant through the petitioners and without the authority the shares were sold out on the basis of

the forged documents. On such complaint, the case was registered under Sections 420, 468, 471, 201 & 120B/34 IPC. Said registration of complaint was subject of challenge before this Court in the instant petition. When the case came up for hearing, the parties were directed to approach the mediator and the mediator has filed a report, wherein it is submitted that the parties have amicably settled the dispute and a cheque of account No.1666010001125 dated 08.11.2017 has been handed over to the complainant and the complainant in lieu of this has decided not to prosecute his complaint against the petitioners and both the parties have withdrawn all the proceedings as initially a complaint was lodged before the State Bar Council by the petitioners against the complainant.

3. Both the counsel appear before this Court and submit that amicable settlement has been arrived at between the parties on the following grounds, which are reproduced hereunder:-

“1. The Appellant / First party shall pay the amount to the tune of Rs. 2,00,000/- [Two Lakhs only] to the Respondent No. 2 through cheque. Accordingly he appellant handed over a account payee bearing Cheque No. 49065, amounting Rs. 2,00,000/- [Two Lakhs only] of the Federal Bank Limited, Branch Bilaspur, payable on or after the date of 20.11.2017 favour of respondent no. 2.

2. That, the aforesaid cheque issued by the Appellant in favour of the Respondent is the full and final payment of the disputed amount and the respondent no. 2 shall never claim for the same cause in future.

3. After realization of the cheque, the Appellant and the Respondent shall inform the status report regarding the payment of the questioned cheque before the Hon'ble Court to insure the result the mediation proceeding.

4. That after concluding the mediation proceedings, the appellant shall withdraw all the cases filed by him against the respondent no. 2 including a complained against the respondent no. 2 filed by the appellant before Chhattisgarh State Bar Counsel.

5. By virtue of this compromise, the respondent no. 2 shall also withdraw all the proceeding and action drawn

again the appellant.

6. The parties are compromising the matter and come to the amicable settlement in the mediation proceedings, with their own free will without any fear or favour.”

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 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

1 (2012) 10 SCC 303

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.

62. In view of the above, it cannot be said that B.S. Joshi, Nikhil Merchant and Manoj Sharma were not correctly decided. We answer the reference accordingly. Let these matters be now listed before the Bench(es) concerned”

5. Further, in case of ***Parbatbhai Aahir @ Parbatbhai Bhimsinhbhai Karmur & Ors. {(2017) 9 SCC 641}*** their Lordship again reiterated the view taken in case of ***Gian Singh*** (supra) and has laid down the following propositions :

“**16.** The broad principles which emerge from the precedents on the subject, may be summarised in the following propositions :

16.1 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;

16.2 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.

16.3 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;

16.4 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;

16.5 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;

16.6 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;

16.7 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;

16.8 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;

16.9 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

16.10 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. Perused the statement, which has been placed before this Court, wherein the parties have settled their dispute amicably and it is stated that in lieu of such settlement, the complainant do not want to prosecute his complaint. Considering such compromise, it would be in the interest of justice to allow the petition and quash the proceedings of the criminal case No.13655/2014, earlier Criminal Complaint No.402/2013 registered under Sections 420, 468, 471, 201 & 120B/34 IPC.
7. Accordingly, the petition is allowed. The proceedings of criminal case No.13655/2014 is hereby quashed. The petitioners are acquitted of the charges leveled against them.

Sd/-
Goutam Bhaduri
Judge