

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 221 of 2018**

1. Roshan Lal Burman S/o Late Shri Parasram Burman Aged About 50 Years R/o Village Chhirhutti, P.S. Lormi, Civil And Revenue District Mungeli Chhattisgarh
2. Umend Das Khande S/o Shri Phoolchand Khande, Aged About 58 Years R/o Village Nawapara Bhondu, P.S. Lormi, Civil And Revenue District Mungeli Chhattisgarh
3. Smt. Kalawati Burman W/o Shri Roshan Lal Burman Aged About 39 Years R/o Village Chhirhutti, P.S. Lormi, Civil And Revenue District Mungeli, Chhattisgarh

---- Petitioners**Versus**

1. State of Chhattisgarh Through The District Magistrate Bilaspur District Bilaspur Chhattisgarh
2. Bisahulal Nirgun S/o Late Shri Samalu Prasad Nirgun Aged About 67 Years R/o Village Lalpur, Post Gobripat P. S. Kota, P. S. Kota, Civil And Revenue Distt. Bilaspur Chhattisgarh

---- Respondents

For Petitioners	:	Shri Sunil Sahu, Advocate
For Respondent/State	:	Shri Anant Bajpai, PL for the State.
For Respondent No.2	:	Shri Virendra Verma, Advocate

Hon'ble Shri Justice Goutam Bhaduri**Order On Board****12/03/2019**

1. Heard.
2. The present petition has been filed for quashment of the criminal case No.163/2016 pending before the JMFC, Kota under Sections 467, 468, 471, 380, 384/34 IPC.
3. As per the case of the complainant/respondent No.2, he obtained a loan in the

year 2015 from the Bank and by way of security for re-payment of the loan certain blank signed cheques were given. The petitioner No.1 Roshal Lal Burman, who was working as peon in the Bank has stolen the cheques and used and thereafter a complaint under Section 138 of the Negotiable Instruments Act, 1881 was filed. As against this the complainant having come to know the fact that the cheques have been misused the complaint was filed under different sections, which is pending. During the pendency of the criminal case, a complaint under Section 320 (2) Cr.P.C. was filed for compounding of the offence. On such application, the JMFC has compounded the offence under Sections 420 IPC and Section 4 of the Chhattisgarh Protection of Debtors Act, 1937, whereas in respect of the offence under Sections 380, 467, 468, 471, 384 read with Section 34 IPC compounding was refused.

4. It is contended that both the parties have settled the dispute and the statements of the parties have been recorded and they have contended that they do not want to further continue with the criminal case as they have entered into the compromise, therefore, the proceedings of the criminal case may be quashed.
5. 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

¹ (2012) 10 SCC 303

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.

6. Further, in case of ***Parbatbhai Aahir @ Parbatbhai Bhimsinhbhai Karmur & ors. V. State of Gujarat & 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 :

“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;

(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.”

7. Considering the nature of the complaint made, it appears that the complaint is private in nature and was revolving in between the complainant and the petitioners. The complainant has stated that he do not want to continue the prosecution, therefore, continuation of the prosecution may be futile.
8. Taking into the nature of the complaint in between the parties and the principles laid down by the Supreme Court, I am inclined to allow this petition. Accordingly, the order dated 15.12.2017, wherein the application for compounding of the offence under Sections 380, 467, 468, 471 and 384 read with Section 34 IPC was dismissed is modified to the extent that the offence under the aforesaid sections stands quashed in view of the compromise made in between the parties. In a result, since the accused have already been discharged under Sections 420 IPC and Section 4 of the Chhattisgarh Protection of Debtors Act, 1937 consequently, the proceedings of the criminal

case No.163/16 pending before the JMFC, Kota stands quashed. The petitioners are acquitted of the charges leveled against them.

9. Accordingly, the CRMP stands allowed.

Sd/-

Goutam Bhaduri
Judge

Ashu