

HIGH COURT OF CHHATTISGARH, BILASPURCr.M.P.No.597 of 2019

1. Dr.Akhilesh Yadav, Son of Late Shri G.R. Yadav, Aged about 54 years, Occupation : Doctor
2. Smt. Rita Yadav, Wife of Dr.Akhilesh Yadav, Aged about 49 years, Occupation : Housewife
Both Residents of P.W.S. 405, Vaishali Nagar, Bhilai, Tahsil & District Durg, (Chhattisgarh)

--- Petitioners

Versus

1. The State of Chhattisgarh, Through Police Station Durg, District Durg (Chhattisgarh)
2. Anil Kumar Pandey, Son of Shri Shivnarayan Pandey, Aged about 45 years, Occupation: Business, Resident of Subhash Nagar, Kasarideeh, Durg, Tahsil and District Durg (Chhattisgarh)

--- Respondents

For Petitioners	:	Mr.Rajeev Shrivastava, Advocate
For Respondent No.1	:	Mr.Ravi Kumar Bhagat, Dy.G.A.
For Respondent No.2	:	Mr.Sanjay Patel, Advocate

Hon'ble Shri Justice Sanjay K. AgrawalOrder on Board09/04/2019

1. On a complaint filed by respondent No.2, offence under Sections 406, 419, 420, 467, 468, 471 and 120B of the IPC was registered against the petitioners and they are facing trial. Now the petitioners have filed this CrMP stating inter-alia that dispute between them is civil dispute as petitioner No.2 entered into agreement to sale with respondent No.2, therefore, in exercise of power under Section 482 of the CrPC, initiation and continuance of criminal prosecution in Criminal Case No.11688/2016 (State of Chhattisgarh v. Dr.Akhilesh Yadav and another) be quashed.
2. Pursuant to the petition, statements of petitioner No.1-Dr.Akhilesh Yadav and respondent No.2-Anil Kumar Pandey have been

recorded by the Additional Registrar (J.), in which they have made statements that they have settled their dispute amicably, therefore, initiation and continuance of criminal proceedings be quashed.

3. I have heard learned counsel for the parties and pursued the statements of the parties recorded by the Additional Registrar (J.).
4. The Supreme Court in the matter of **State of Madhya Pradesh v. Laxmi Narayan and Others**¹ considering the earlier decision i.e. **Gian Singh v. State of Punjab**² held as under:-

“31. Considering the law on the point and the other decisions of this Court on the point, referred to hereinabove, it is observed and held as under:

- i) that the power conferred under Section 482 of the Code to quash the criminal proceedings for the non-compoundable offences under Section 320 of the Code can be exercised having overwhelmingly and predominantly the civil character, particularly those arising out of commercial transactions or arising out of matrimonial relationship or family disputes and when the parties have resolved the entire dispute amongst themselves;
- ii) such power is not to be exercised in those prosecutions which involved heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. Such offences are not private in nature and have a serious impact on society;
- iii) similarly, such power is not to be exercised for the offences under the special statutes like Prevention of Corruption Act or the offences committed by public servants while working in that capacity are not to be quashed merely on the basis of compromise between the victim and the offender;
- iv) offences under Section 307 IPC and the Arms Act etc. would fall in the category of heinous and serious offences and therefore are to be treated as crime against the society and not against the individual alone, and therefore, the criminal proceedings for the offence under Section 307 IPC and/or the Arms Act etc. which have a serious impact on the society cannot be quashed in exercise of powers under Section 482 of the Code, on the ground that the parties have resolved their entire dispute

1 2019 SCC OnLine SC 320

2 (2012) 10 SCC 303

amongst themselves. However, the High Court would not rest its decision merely because there is a mention of Section 307 IPC in the FIR or the charge is framed under this provision. It would be open to the High Court to examine as to whether incorporation of Section 307 IPC is there for the sake of it or the prosecution has collected sufficient evidence, which if proved, would lead to framing the charge under Section 307 IPC. For this purpose, it would be open to the High Court to go by the nature of injury sustained, whether such injury is inflicted on the vital/delegate parts of the body, nature of weapons used etc. However, such an exercise by the High Court would be permissible only after the evidence is collected after investigation and the charge sheet is filed/charge is framed and/or during the trial. Such exercise is not permissible when the matter is still under investigation. Therefore, the ultimate conclusion in paragraphs 29.6 and 29.7 of the decision of this Court in the case of Narinder Singh (supra) should be read harmoniously and to be read as a whole and in the circumstances stated hereinabove;

v) while exercising the power under Section 482 of the Code to quash the criminal proceedings in respect of non-compoundable offences, which are private in nature and do not have a serious impart on society, on the ground that there is a settlement/compromise between the victim and the offender, the High Court is required to consider the antecedents of the accused; the conduct of the accused, namely, whether the accused was absconding and why he was absconding, how he had managed with the complainant to enter into a compromise etc.”

5. Reverting to the facts of the present case, it appears that offence under Section 419 of the IPC is compoundable with the complainant, whereas offence under Sections 406 and 420 of the IPC is compoundable with the leave of the Court. However, offence under Sections 467, 468, 471 and 120B of the IPC is not compoundable. Considering the fact that petitioner No.2 has entered into agreement to sale with respondent No.2 and dispute arose thereafter, which is predominantly the dispute of civil character arising out of the commercial transactions, parties have

settled their dispute amicably, they are residents of city of Durg and they have made statements voluntarily having resolved their entire dispute among themselves, it is a fit case to invoke Section 482 of the CrPC for quashing the criminal proceedings registered against the petitioners in Criminal Case No.11688/2016.

6. Accordingly, initiation and continuance of criminal proceeding against the petitioners for offence under Sections 406, 419, 420, 467, 468, 471 and 120B of the IPC on the basis of complaint made by respondent No.2 in the Court of Chief Judicial Magistrate, Durg in Criminal Case No.11688/2016 is hereby quashed.
7. The CrMP is allowed to the extent indicated hereinabove.

Sd/-

(Sanjay K. Agrawal)
Judge

B/-