

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (Cr.) No. 336 of 2016**

1. Anand Agrawal, S/o Late Shri Gajanand Agrawal, aged about 53 years,
2. Murlidhar Agrawal, S/o Late Shri Gajanand Agrawal, aged about 55 years,
R/o Dabhra Road, Kharsiya, District Raigarh (C.G.)

----Petitioners**Versus**

1. State of Chhattisgarh, through the Superintendent of Police, Police Station Ambikapur, District Surguja (C.G.)
2. The Director General of Police, Government of Chhattisgarh, Mantralaya, Mahanadi Bhawan, New Raipur, District Raipur (C.G.)
3. The Town Inspector, Police Station and Tahsil Ambikapur, District Sarguja (C.G.)
4. Smt. Draupati Devi Agrawal, W/o Late Shri Gajanand Agrawal, aged about 70 years, R/o Dabhra Road, Kharsiya, District Raigarh (C.G.)
5. Ashok Kumar Agrawal, S/o Late Shri Gajanand Agrawal, aged about 48 years, R/o Dabhra Road, Kharsiya, District Raigarh (C.G.)

---- Respondents

For Petitioner : Mr. Abhishek Sinha, Advocate

For Respondents No. 1 to 3/State : Mr. Chandresh Shrivastava, Dy. Advocate General.

For Respondents No. 4 & 5 : Mr. B.M. Roy, Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal**Order On Board****15/04/2019**

(1) The petitioners have filed this Cr.M.P. for quashment of criminal proceedings initiated by respondents No. 4 & 5 against them for the offence punishable under Section 420 reads with 34 of the Indian Penal Code (for short, "IPC") stating inter alia

that dispute is between son and mother relating to partition of the family business and the matter has been settled amicably between them.

(2) Pursuant to the petition, statements of petitioner No. 1- Anand Agrawal, Petitioner No. 2- Murlidhar Agrawal and respondent No. 5- Ashok Kumar Agrawal have been recorded by the Additional Registrar (J.), in which they have made statement that they have settled their dispute amicably in order to maintain good relations in near future being son and mother, 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;

¹ 2019 SCC OnLine SC 320

² (2012) 10 SCC 303

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 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 impact 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 420 read with Section 34 of the IPC is compoundable with the leave of the Court. Since the aforesaid offence is compoundable with the leave of the Court; and instant dispute arose between the parties is of civil dispute arising out of the partition of the family business; parties have settled their dispute amicably in order to make good relation in near future being son and mother 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 petitioner in FIR No. 33354002160812/2016.

(6) Accordingly, initiation and continuation of criminal proceeding against the petitioners for offence under Section 420 read with Section 34 of the IPC on the basis of FIR being FIR NO. 33354002160812/2016 registered in the police station Ambikapur is hereby quashed.

(7) The CrMP is allowed to the extent indicated hereinabove.

Sd/-

(Sanjay K. Agrawal)
Judge

D/-

HIGH COURT OF CHHATTISGARH, BILASPUR

Order Sheet

Writ Petition (Cr.) No. 336 of 2016

Anand Agrawal **Versus** State of Chhattisgarh & others.

30/04/2019	This is an office reference for modification of the order 15.04.2019 passed in the instant case. On due consideration, it is allowed and the order dated 15.04.2019 is modified in the following terms. Let in place of “Cr.M.P.” as has been typed in the paragraphs 1 & 7 and also in place of “Section 482 of the Cr.P.C.” as has been typed in paragraph 5 of the order dated 15.04.2019, “<i>Writ Petition (Criminal)</i>” be read. Rest of conditions mentioned in the order shall remain intact. The order dated 15.04.2019 stands modified accordingly and be read along with this order. Accordingly, the office reference stands disposed of. Sd/- (Sanjay K. Agrawal) Judge
D/-	