

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRR No. 533 of 2018**

- Raja @ Rajkumar Tiwari, son of Ramayan Prasad Tiwari, aged about 43 years, R/o Naya Talab Murra Bhatthi, Police Gudiyari, Raipur, District Raipur (C.G.)

----Applicant**Versus**

- State of Chhattisgarh Through : The Police Station House Officer, Police Station Gudiyari, District Raipur (C.G.)

---- Respondent**And****CRR No. 713 of 2018**

- Sanjay Kumar Choubey, son of Jagdish Choubey, aged about 34 years, resident of behind Osho Bhawan, Gandhi Nagar, P.S. Gudiyari, District Raipur (C.G.)

----Applicant**Versus**

- State of Chhattisgarh Through : The Police Station House Officer, P.S. Gudiyari, District Raipur (C.G.)

---- Respondent**And****CRR No. 518 of 2019**

- Anil Sahu, aged about 38 years, S/o Mr. Radheshyam Sahu, resident of Ramnagar, Near Police Sub Station, P.S. Gudhiyari, Raipur (C.G.)

----Applicant**Versus**

- State of Chhattisgarh Through : The District Magistrate, Raipur (C.G.)

---- Respondent

For Applicants	:	Ms. Supriya Upasane and Ms. Anuja Sharma, Advocates.
For Respondent/State	:	Shri Wasim Miyan, P.L.

Hon'ble Smt. Justice Rajani Dubey**Order on Board****26/09/2019**

01. Since the aforesaid criminal revisions arise out of the same judgment, they are being disposed of by this common order.

02. These revisions are directed against the order dated 24.04.2018 passed by 1st Additional Sessions Judge, Raipur, in Criminal Appeal No.41/2018, whereby the judgment and order dated 15.02.2018 passed by Special Railway Magistrate, Raipur, District Raipur in Criminal Case No.17859/2016 convicting the accused/applicants of the charge under Sections 120-B and 420 IPC and sentencing them to undergo R.I. for 2-2 years with fine of Rs.2,000/- – Rs.2,000/-, R.I. for 3-3 years with fine of Rs.3,000/- - Rs.3,000/-, plus default stipulation respectively, has been confirmed by the appellate Court.

03. According to the counsel for the accused/applicants, originally complainant Smt. Prabha Patel had filed a written complaint against the present applicants for which offence under Sections 420, 467, 468, 471, 120-B, 506, 34 IPC was registered against them at police station Gudhiyari as Crime No.180/2016 and the matter thereafter was put to trial before the Court of Special Railway Magistrate, Raipur vide Criminal Case No.17859/2016.

04. The applicants were prosecuted for the offence under Sections 120-B, 420/34, 467, 468 and 471 IPC and tried for the said offence by the learned Special Railway Magistrate. The learned trial Court, after appreciating oral and documentary evidence, while acquitting the accused/applicants of the charge under Sections 467, 468 and 471, convicted them under Sections 120-B and 420/34 IPC by the judgment and order dated 15.02.2018. The applicants preferred an appeal against the judgment and order dated 15.02.2018, and the learned appellate Court by the impugned judgment dated 24.04.2018 affirmed the judgment and order passed by the learned trial Court. Hence, the present revision petitions by the accused/applicants.

05. Pending the dispute between the parties before this Court, the parties have amicably resolved the dispute and have arrived at a settlement. Complainant Smt. Prabha Patel does not intend to prosecute the accused/applicant any further and, therefore, she had moved an application under Section 320 CrPC before this Court for permission to compound the offence under Sections 120-B and 420 IPC.

06. On 11.09.2019 the parties were present before this Court. Pursuant to the Court's order dated 11.09.2019, the statement of complainant Smt. Prabha Patel and applicants were recorded. On 26.09.2019, complainant Smt. Prabha Patel, who is aged about 77 years, represented in this case by

a duly appointed counsel. An affidavit duly signed by her is also annexed with the application filed under Section 320 CrPC wherein she has accepted the fact that the dispute between the parties has been compromised and she does not intent to prosecute the case any further.

07. Learned Counsel for the State also on verifying the facts submits that the State does not have any objection in case if the parties are permitted to compound the offence as the disputing parties have entered into a compromise.

08. In view of the categorical statement made by complainant Smt. Prabha Patel and the accused/applicants, this Court is of the opinion that once when the complainant and the accused/applicants have settled their matter and buried the dispute and differences, it would be an important consideration for the Court under Section 320 (2) CrPC to compound the offence.

09. The opinion of this Court stands fortified from the judgment of the Supreme Court in the case of ***Gian Singh V. State of Punjab & Another [2012 (10) SCC 303]*** and also in the case of ***Narinder Singh & Others V. State of Punjab & Another [2014 (6) SCC 466]***.

10. Thus, in view of the affidavit submitted by complainant Smt. Prabha Patel and keeping in view the law laid down by the Supreme Court in the case of ***B.S. Joshi & other V. State of Haryana & Another [2003 (4) SCC 675]*** and in

the case of **Gian Singh** (supra) and **Narinder Singh** (supra), this Court is of the opinion that it is a fit case where the parties can be permitted to compound the offence.

11. Accordingly, the criminal revisions are allowed. The impugned judgment of conviction and order of sentence dated 24.04.2018 passed in Criminal Appeal No.41/2018 by 1st Additional Sessions Judge, Balod is set aside and the accused/applicants stand acquitted from the offence punishable under Section 120-B and 420 IPC.

**Sd/-
(Rajani Dubey)
JUDGE**