

NAFR

**HIGH COURT OF CHHATTISGARH, BILASPUR****Cr.M.P. No.1110 of 2017**

Anand Kumar Agrawal, S/o Late Gajanand Agrawal, Aged about 53 years, R/o Besides Jagdamba Hardwares, Dabhra Road, Kharsia, Distt. Raigarh (CG)

----Petitioner

**Versus**

1. Krishna Kumar Jaiswal, S/o Sriram Jaiswal Aged about 46 years, Dhimarpur, Raigarh, Tahsil & District Raigarh (CG)

2. State of Chhattisgarh, Through Superintendent of Police, Raigarh, Distt. Raigarh (CG)

3. Station House Officer, City Kotwali, Raigarh, Distt. Raigarh (CG)

---- Respondents

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For Petitioner : Mr. Abhishek Sinha, Advocate

For Respondents No. 1 : Mr.Sanjay Agrawal, Advocate

For Respondents No. 2 & 3 : Mr.S.K.Agrawal, Govt.Advocate

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**Hon'ble Shri Justice Sanjay K. Agrawal****Order On Board****17/05/2019**

(1) The petitioner has filed this Cr.M.P. for quashment of FIR No.367/2016 and criminal proceedings initiated by respondent No. 1 against him for the offence punishable under Section 420 of the Indian Penal Code (for short, "IPC") stating inter alia that they have settled their dispute amicably and there is no dispute subsisting between them.

(2) Pursuant to the petition, statements of petitioner-Anand Kumar Agrawal and respondent No.1-Krishna Kumar Jaiswal 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 and amount in dispute has already been returned to respondent No.1, therefore, registration of FIR and consequential 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<sup>1</sup> considering the earlier decision i.e. Gian Singh v. State of Punjab<sup>2</sup> 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

1 2019 SCC OnLine SC 320

2 (2012) 10 SCC 303

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 of the IPC is compoundable with the leave of the Court and parties have settled their dispute amicably in order to maintain good relation in near future, it is a fit case to invoke Section 482 of the CrPC for quashing the FIR and consequential proceedings.

(6) Accordingly, registration of FIR in Crime No.367/2016 for offence punishable under Section 420 of the IPC and consequential criminal proceedings against the petitioner are hereby quashed.

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

Sd/-

(Sanjay K. Agrawal)  
Judge

B/-