

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Misc. Petition No. 128 of 2021**

- Jeevan Kamde, Son of Dukhram, aged about 51 years, R/o. Village, Post, Police Station & Tahsil Chhuikhadan, Distt. Rajnandgaon (CG)

---- Petitioner**Versus**

1. State Of Chhattisgarh Through Station House Officer, P.S. Balod, Distt. Balod (CG)
2. Bhupath Singh Behdiya, son of Awadh Ram aged about 28 years, R/o. Village Bhediya Nawagaon Tahsil and Distt. Balod (CG)

---Respondents

For Petitioner	: Shri Avinash Chand Sahu, Advocate
For Respondent No. 1/State	: Shri Animesh Tiwari, Dy. Advocate General
For Respondent No.2	: Shri Purnendra Khichariya, Advocate

Hon'ble Shri Justice Sanjay K. Agrawal**Order on Board****19.3.2021.**

1. The matter is heard finally with the consent of the parties.
2. The petitioner has preferred this petition under Section 482 of the Code of Criminal Procedure, 1973 seeking quashment of FIR No.23/2018 registered at Police Station Balod dated 17.01.2018 and criminal proceedings in connection with Criminal Case No.168/2018 for the offence punishable under Section 420/34 IPC pending before the Court of Chief Judicial Magistrate, Balod, Distt. Balod (CG).
3. Pursuant to the notice by this Court, respondent No.2 has appeared before Additional Registrar (Judicial) and his statement was recorded in which he has clearly stated that dispute has been amicably settled between him and the petitioner and he is not willing to prosecute the case further.

4. Learned counsel for the petitioner submits that the petitioner and the complainant/respondent No.2 have settled their dispute amicably and dispute with co-accused Aimen Prasad Mishra has already been settled by the complainant and now there is no dispute outstanding with him, as such, the prosecution case be closed.

5 Learned counsel for respondent No.2 would submit that the matter has been amicably settled between the parties and there is no dispute survive between them.

6. I have heard learned counsel for the parties, considered their submissions and went through the records with utmost circumspection.

7. The Supreme Court, in the matter of **Parbatbhai Aahir Alias Parbatbhai Bhimsinhbhai Karmur and Others v. State of Gujarat and Another**¹, has laid down the broad principles for quashing criminal proceedings on the basis of compromise between the parties. Paragraph 16 of the judgment states as under :-

“16. The broad principles which emerge from the precedents on the subject, may be summarised in the following propositions :

16.1. 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;

16.2. 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.

1 (2017) 9 SCC 641

16.3. 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;

16.4. 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;

16.5. 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;

16.6. 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;

16.7. 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;

16.8. 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;

16.9. 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

16.10. 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 misdemeanor. The consequences of the act complained of upon the financial or economic system will weigh in the balance.”

8. Reverting to the facts of the present case in light of the aforesaid principle of law laid down by their Lordships of the Supreme Court, taking into consideration that the parties have settled their dispute amicably as they have recorded their statement before the Additional Registrar (Judicial) clearly stating that they have settled their dispute amicably, I am satisfied that it is a fit case where inherent jurisdiction of this Court under Section 482 of the CrPC can be exercised by quashing the FIR and criminal proceedings pending against the petitioner, as they have resolved the dispute amicably.

9. Accordingly, the petition is allowed and FIR No.23/2018 registered at Police Station Balod, Distt. Balod and criminal proceedings in Criminal Case No.168/2018 (State of Chhattisgarh Vs. Jeevan Kamde) pending against the petitioner in the Court of Chief Judicial Magistrate, Balod, Distt. Balod for the offence punishable under Section 420/34 IPC is hereby quashed and the petitioner is acquitted of the said charge.

Sd/-

(Sanjay K. Agrawal)
JUDGE