

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 24 of 2015**

1. Brijlal Dewangan S/o Late Sonuram Dewangan Aged About 40 Years R/o House No. 101, Shiv Vatika, Ashwini Nagar, Police Station Azad Chowk, Raipur, Chhattisgarh
2. Kamlesh Dewangan S/o Daulat Ram Dewangan Aged About 31 Years R/o Near Satyanarayan Mandir, Brahmanpara, Raipur C.G.
3. Madanlal Sahu S/o Laluram Sahu Aged About 47 Years R/o Village Mode, Tahsil And Police Station Nagri Distt. Dhamtari C.G.
4. Asha Parmar W/o Rasik Bhai Parmar Aged About 41 Years R/o Changorbhata, Shiv Nagar Police Station D.D. Nagar Raipur C.G.
5. Rasik Bhai Parmar S/o Babu Bhai Aged About 46 Years R/o Changorbhata, Shiv Nagar Police Station D.D. Nagar Raipur Civil And Revenue Distt. Raipur C.G.

---- Petitioners

Versus

1. State of Chhattisgarh S/o Through The Police Station Gole Bazar Special Offence Investigation Raipur C.G.
2. Arun Kumar Dewangan S/o Loknath Dewangan Aged About 40 Years R/o Vidhan Sabha Road, Village, Dondekala, Ward No. 13, Quarter No. 95, Raipur, Tahsil And District Raipur Chhattisgarh, Pin - 493113.

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For Petitioners	: Ms. Anmol Sharma, Advocate
For the State	: Mr. Rakesh Sahu, Dy. G.A.
For respondent No.2	: Mr. Nitesh Jain, Advocate

Hon'ble Shri Justice Narendra Kumar Vyas**Order On Board****22.09.2021**

1. The present petition has been filed under Section 482 of the Cr.P.C for challenging the registration of FIR bearing Crime No.44/13 dated 07.02.2013 registered at Police Station Golbazar District- Raipur for commission of offence punishable under Sections 419, 420, 467, 468, 471, 120-B of IPC. The said FIR has been registered against the petitioners Brijlal Dewangan, Asha Parmar and Rashid Bhai Parmar on the basis of complaint made by Arun Kumar Dewangan.
2. Learned counsel for the petitioners would submit that respondent No.2 has made a complaint alleging that petitioners have allegedly sold the land situated at Changorbhata, Raipur, bearing Khasra No.150/337 part of 8-10 area about 2800 Sq. Ft. He

would further submit that as per contents of the FIR, the complainant has already done some construction. He was also paying taxes for the diverted land as per Government rate petitioners have malafidely and in illegal manner has fabricated forged Reen Pustika on the basis of this document they have sold the land. The police on the basis of complaint has registered the aforesaid FIR after investigation Police has submitted final report on 09.05.2013 before Judicial Magistrate First Class, Raipur which was registered as criminal case No.268/2013 against petitioners.

3. During pendency of the petition, the parties have already resolved their disputes therefore, they have filed an application under Section 320 of IPC for quashing of the complaint.
4. Learned Judicial Magistrate First Class vide Annexure P4 dated 13.06.2013 has partly allowed the application to the extent that Section 419 of IPC has been quashed on the basis of settlement and thereafter trial Court has fixed the case for trial on further charges leveled against petitioners. The petitioners have challenged this order before this Court by filing present CRMP.
5. This Court vide its order dated 07.05.2015 has stayed the further proceeding pending before Judicial Magistrate First Class, Raipur. Thereafter, the interim order passed by this Court was made continued. The learned counsel for the petitioners would submit that since parties have already settled their dispute and proceeding initiated against them be finally quashed. During pendency of this petition original complainant expired thereafter, his brother Arun Kumar Dewangan has been arrayed as respondent No.2.
6. This Court vide its order dated 31.08.2021 has directed the petitioners and respondent No. 2 to appear before the Additional Registrar (Judicial) of this Court for recording of their statements on 14.09.2021. In pursuant to the direction of this Court, the petitioner and respondent No. 2 entered their appearance and stated in unequivocal terms that now there is no dispute between them, respondent No. 2 is not willing to continue with the criminal proceedings and prayed

for quashment of the FIR No.44/2013 as well as Criminal Case No. 268/2013. She has stated that she has voluntarily deposed that statement, it has been executed without fear, pressure or undue influence from the petitioners.

7. Hon'ble the Supreme Court in case of **State of Madhya Pradesh Vs. Laxmi Narayan & others**¹, has summarized the law for quashing of FIR, the relevant paragraphs are extracted below:-

“15.1 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;

15.5 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.”

8. In view of the said legal position, considering the facts and circumstances of the case, the fact that the parties have amicably settled dispute between them and they do not want to continue with the criminal case, this court is of the considered opinion that there is sufficient material for this court to form an opinion to quash the criminal proceeding initiated against the petitioners. Further, this court is of the opinion that the continuation of criminal proceeding will be nothing, but to an abuse of process of law. Accordingly, Criminal Case No. 268/2013 pending before the learned Judicial Magistrate First Class, Raipur District – Raipur as

¹(2019) 5 SCC 688

well as FIR bearing registration No. 44/2013 registered against the petitioners at Police Station- Golbazar District- Raipur (C.G.) for committing offence punishable under Sections 419, 420, 467, 468, 471, 120-B deserve to be and are hereby quashed in the interest of justice.

9. In view of the above, the present petition is allowed. No order as to costs.
10. Copy of this order be sent to the concerned Judicial Magistrate for necessary compliance and closure of the proceedings.

Sd/-

(Narendra Kumar Vyas)

Judge

parul