

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 223 of 2018

1. Roshan Lal Burman S/o Late Shri Parasram Burman Aged About 50 Years R/o Chhirhutti, P. S. Lormi, Civil And Revenue Distt. Mungeli Chhattisgarh.
2. Kalawati Burman W/o Shri Roshan Lal Burman Aged About 39 Years R/o Chhirhutti, P. S. Lormi, Civil And Revenue Distt. Mungeli Chhattisgarh.

---- Petitioners

Versus

1. State of Chhattisgarh Through The District Magistrate Bilaspur District Bilaspur Chhattisgarh,
2. Praveen Kumar Dewangan S/o Shri D. S. Dewangan Aged About 50 Years R/o Village Khongsara, Police Out Post, Belgahna, P. S. Kota, Civil And Revenue Distt. Bilaspur Chhattisgarh,
3. Dinesh Kumar Thakur S/o Shri Dashelal Aged About 42 Years R/o Village Khongsara, Police Out Post, Belgahna, P. S. Kota, Civil And Revenue Distt. Bilaspur Chhattisgarh,

---- Respondents

For Petitioners	: Mr. Sunil Sahu, Advocate
For State/respondent No.1	: Mr. Vinod Tekam, Panel Lawyer
For Respondent No.3	: Mr. Suresh Kumar Verma, Advocate

Hon'ble Shri Justice Narendra Kumar Vyas

Order on Board

30-7-2021

1. It has been brought to the notice of this court that during pendency of this petition, respondent/complainant No.2 namely Praveen Kumar Dewangan died on 10-4-2018 and copy of death certificate of respondent No.2 is also attached which is taken on record.
2. The petitioners have filed the present petition under Section 482 of the Cr.P.C, seeking quashment of the entire proceedings in Criminal Case No. 164 of 2016 pending before the learned Judicial Magistrate First Class, Bilaspur arising out of FIR in connection with Crime No. 310 of 2015 registered at Police

Station Kota, District Bilaspur, for the offence punishable under Sections 420, 467, 468, 471, 380, 384/34 of IPC and Sections 3 & 4 of the Chhattisgarh Protection of Debtors Act 1937 on account of amicable settlement arrived at between the parties.

3. The case of the prosecution, in brief, is that the complainants i.e., respondent No.3 Dinesh Kumar Thakur and respondent No.2 Praveen Kuamr Dewangan (who died during pendency of this petition) lodged the report at Police Station, Kota stating therein that the petitioners have taken loan from the bank and deposited the Rin Pustika and signed cheque to the Manager of the Bank and cheque book was with the bank which was not returned to them, subsequently accused Roshanlal has stolen the cheque. Thereafter the complainants filed a complaint under Section 138 of the Negotiable Instruments Act. During investigation, it was revealed that the cheque which has been deposited in the bank as security was used by the petitioners, thereafter respondent No. 2 and 3 lodged FIR against the petitioners before police station Kota, Dist. Bilaspur, for the offence punishable under Sections 420, 467, 468, 471, 380, 384/34 of IPC and Sections 3 & 4 of the Chhattisgarh Protection of Debtors Act 1937. On the basis of the FIR challan has also been submitted before the Judicial Magistrate First Class, Kota in Criminal Case No. 164 of 2016.
4. Learned counsel for the petitioners would submit that they have filed the present Cr.M.P. for quashing of the entire proceedings of Criminal Case No. 164 of 2016 arising out of FIR in connection with Crime No. 310 of 2015 which is pending before Judicial Magistrate First Class, Kota on the strength of settlement arrived between the petitioners and respondent No. 3 and he would further submit that now they don't want to continue with the criminal case.
5. This Court vide its order dated 19-7.2021 has directed the petitioners and complainant - respondent No.3 to appear before the Additional Registrar (Judicial) of this Court for recording of their statements on 23-7.2021. In pursuant of the direction of this

Court, the petitioners and respondent No. 3 entered their appearance before the Additional Registrar (J) on 23-7-2021 and stated in unequivocal terms that now there is no dispute between them, respondent No. 3 is not willing to continue with the criminal proceedings and prayed for quashment of the proceedings of Criminal Case No. 164 of 2016. Respondent No.3 has stated that he has voluntarily deposed that the statement which has been executed without fear, pressure or undue influence from the petitioner.

6. 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.”

7. 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 petitioner. Further, this court is of the opinion that the continuation of criminal proceeding will be nothing, but to an

¹ (2019) 5 SCC 688

abuse of process of law. Accordingly, the proceedings of Criminal Case No. 164 of 2016 pending before the learned Judicial Magistrate First Class, Kota, District Bilaspur deserves to be and is hereby quashed in the interest of justice.

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

Sd/-
(Narendra Kumar Vyas)
Judge

Raju