

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 159 of 2021

- Rampal Kashyap S/o Shri Sarkaru Aged About 60 Years R/o Dharamjaygarh, Thana And Tahsil Dharamjaygarh, District Raigarh, Chhattisgarh, Permanent R/o Champa, Tahna And Tahsil Champa, Civil And Revenue District Janjgir Champa, Chhattisgarh.

---- Petitioner

Versus

1. State Of Chhattisgarh Through The District Magistrate Raigarh, District Raigarh, Chhattisgarh.
2. Sukaru Gond W/o Shri Pitwaso Gond Aged About 68 Years R/o Village -Taraimara, Thana And Tahsil - Dharamjaygarh, District Raigarh, Chhattisgarh.

---- Respondents

For Petitioner : Shri Sunil Sahu, Advocate

For State : Shri Uddhav Sharma, Government Advocate

For Respondent No.2 : Shri Samir Singh, Advocate

Hon'ble Shri Justice Narendra Kumar Vyas

Order on Board

28.06.2021

1. The petitioner has filed this petition under Section 482 of the Cr.P.C. seeking quashment of Criminal Case No. 32/2012 pending before the Judicial Magistrate First Class, Dharamjaygarh, District – Raigarh arising out of FIR No. 191/2010 registered at Police Station Dharamjaygarh, District – Raigarh for the offence punishable under Sections 467, 468 and 471 of the IPC on the basis of compromise arrived at between the parties.
2. Facts as projected by the petitioner, in brief, are that respondent No. 2 made a complaint on 30.06.2010 before police station Dharamjaygarh that he is Gond by caste and resident of

village Taraimar, Patwari Halka No. 19 and the land bearing Khasra No. 14/2JH ad-measuring 0.841 Ha. And Khasra No. 43/2H ad-measuring 0.373 Ha. were recorded in his name in revenue record. Co-accused Rajaram, Mayaram, Dashrath, Rajesh, Bajrang and Gopiram with the help of petitioner who was Halka Patwari for the said village recorded their name after mutation and also sold the land. The police made an inquiry in the matter and registered FIR against the petitioner as well as Tahsildar along with other co-accused for offence punishable under Sections 467, 468, 471, 420/34 IPC.

3. The proceedings for mutation were recorded in Namantaran Panji. The co-accused persons submitted affidavit that Sukaru Sidar died and they are his legal representatives, therefore, as per the provisions contained under the Land Revenue Code a publication was made but no one appeared to object, hence, the mutation order was passed. The Tahsildar came to know this fact that the co-accused persons have committed fraud with the help of revenue officers and obtained mutation order in their favour. He registered Case No. 51/B121/2009-10 and on 09.07.2010 name of the respondent No. 2 was recorded back in the revenue record and the earlier mutation order was cancelled. A report was also submitted to the police station Dharamjaigarh on 23.10.2010. Without considering the said report and their proceedings, charge-sheet was filed on 20.11.2011 against the petitioner and the Tahsildar along with other accused persons.
4. During the pendency of the proceedings before the trial Court, the complainant and petitioner have amicably settled their

dispute out of Court and the petitioner filed an application for permission to compound offence under Sections 320(1) and 320(2) of Cr.P.C. on 22.01.2021. Learned trial Court allowed the application and compounded offence under Section 420 IPC and rejected the application so far as it relates to Sections 467, 468, 471,34 IPC. This order is challenged before this Court.

5. On the basis of settlement of the dispute, the petitioner filed present Cr.M.P. for quashment of the criminal proceedings under Criminal Case No. 35/2012 pending before the Judicial Magistrate First Class, Dharmajaygarh, District – Raigarh for offence under Sections 467, 468 and 471 of IPC. This Court vide its order dated 09.06.2021 directed the petitioner and respondent No. 2 to appear before the Additional Registrar (Judicial) of this Court for recording of their statements on 23.06.2021. 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 Criminal Case No. 35/2012 pending before the Judicial Magistrate First Class, Dharamajaygarh and FIR No. 191/2010 registered at Police Station – Dharamajaygarh, District - Raigarh. They submitted that they have voluntarily deposed their statement that it has been executed without fear, pressure or undue influence from either party.
6. Hon'ble the Supreme Court in case of **State of Madhya**

Pradesh Vs. Laxmi Narayan & others¹, has summarized the law for quashing of FIR, the relevant paragraphs thereof 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 above stated 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 proceedings initiated against the petitioner. Further, this court is of the opinion that the continuation of criminal proceeding will be nothing, but to an abuse of process of law.
8. Accordingly, Criminal Case No. 35/2012 pending before the Judicial Magistrate First Class, Dharamjaygarh, District – Raigarh and FIR bearing registration 191/2010 for offence punishable under Sections 467, 468 and 471 of IPC registered

¹ (2019) 5 SCC 688

against the petitioner at Police Station- Dharamajaygarh, District - Raigarh deserve to be and are hereby quashed so far as it relates to the petitioner **Rampal Kashyap** 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 so far it relates to the petitioner **Rampal Kashyap** only.

Sd-
(Narendra Kumar Vyas)
Judge

kishore