

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 408 of 2019

1. Roshan Lal Burman, S/o Late Shri Parasram Burman, Aged About 50 Years, R/o Village- Chhirhuti, P.S. & Tahsil Lormi, Civil & Revenue District- Mungeli (C.G.)
2. Mangla Navrang, S/o Shri Kaliram Navrang, Aged About 61 Years, R/o Village Chhirhuti, P.S. & Tahsil Lormi, Civil & Revenue District- Mungeli (C.G.)
3. Smt. Kalawati Burman, W/o Shri Roshan Lal Burman, Aged About 37 Years, R/o Village Chhirhuti, P. S. & Tahsil Lormi, Civil & Revenue District- Mungeli (C.G.)

---- Petitioners

Versus

1. State of Chhattisgarh, through the District Magistrate, Bilaspur, District- Bilaspur (C.G.)
2. Durjan Singh, Uikey, S/o Shri Mansaha Siingh, Aged About 62 Years, R/o Village Shivtarai, P.S.- Kota, Civil & Revenue District- Bilaspur (C.G.)

---- Respondents

For Petitioner	:	Mr. Sunil Sahu, Advocate.
For State/Res. No. 1	:	Mr. Hari Om Rai, Panel Lawyer.
For Respondent No. 2	:	Mr. Samir Singh, Advocate.

Hon'ble Shri Justice Narendra Kumar Vyas

Order On Board

03/08/2021

1. The petitioners have filed the present petition under Section 482 of the Cr.P.C. for quashment of entire proceeding in Criminal Case No. 162/2016 pending before Judicial Magistrate First Class, Kota, District- Bilaspur (C.G.) arising out of Crime No. 306/2015 registered at Police Station- Kota, District- Bilaspur (C.G.) against the petitioners for committing offence punishable under Sections 380, 420, 467, 468, 384, 34 of I.P.C. and Sections 3 & 4 of the Chhattisgarh Protection of Debtors Act, 1937 (for short "the Act, 1937") on account of amicable settlement arrived at between the parties.
2. Learned counsel for the petitioner would submit that the complainant/ respondent No. 2- Durjan Singh Uikey lodged a report at Police Station- Kota on 12.09.2015 against the

petitioners alleging that he has taken loan from Punjab National Bank, Kargi Road, Kota Branch and Petitioner No. 1- Roshanlal Burman has committed theft of cheque from his loan account, got issued the ATM Card and withdrawn sum of Rs. 5,08,200/- from his account with help of the other co-accused persons. After completion of investigation, charge-sheet has been filed before Judicial Magistrate First Class, Kota, District- Bilaspur and Criminal Case No. 162/2016 has been registered against the petitioners.

3. Learned counsel for the petitioners would further submit that during pendency of Criminal Case No. 162/2016, the entire amount Rs. 5,08,200/- has been returned back by the petitioners to respondent No. 2- Durjan Singh. Thereafter, they have filed an application under Section 320 (2) of the Cr.P.C. for compounding the offences, which was allowed in part. The learned trial court has compounded the offence under Section 420 of I.P.C. & Sections 3 & 4 of the Act, 1937 and the offence alleged to have been committed by the petitioners under Sections 380, 467, 468, 384, 34 of I.P.C. have not been compounded.
4. Learned counsel for respondent No. 2 does not oppose the submission made by learned counsel for the petitioners.
5. 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

¹ (2019) 5 SCC 688

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.”

6. This Court vide order dated 23.07.2021 directed the parties to record their statement before Additional Registrar (Judicial) of this Court on 24th July, 2021 and in pursuance of this Court's order, Petitioner No. 1- Roshan Lal Burman, Petitioner No. 2- Mangla Navrang, Petitioner No. 3- Kalawati Burman & respondent No. 2- Durjan Singh Uikey recorded their statement, in which, they have unequivocally submitted that their dispute is settled and now there is no dispute between them and they do not want to prosecute the proceeding further.
7. In view of the said legal position, considering the facts and circumstances of the case as also the fact that the parties have amicably settled their dispute 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 continuation of the criminal proceeding will be nothing, but an abuse of process of law. Accordingly, Criminal Case No. 162/2016 pending before the learned Judicial Magistrate, First Class, Kota, District- Bilaspur as well as Crime No. 306/2015 registered at Police Station – Kota, District – Bilaspur against the petitioners for committing offence punishable under Sections 380, 420, 467, 468, 384, 34 of I.P.C. and Sections 3 & 4 of the Act, 1937, deserve to be and are hereby quashed in the interest of justice.
8. In view of the above, the present petition is allowed to the extent indicated hereinabove.

9. Copy of this order be sent to the concerned Judicial Magistrate for closure of the case.

Sd/-
(Narendra Kumar Vyas)
Judge

Arun