

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Cr.M.P. No. 403 of 2021

1. Laxman Kumar Dewangan, S/o- Late Prem Lal @ Chetan Lal Dewangan, Caste – Koshta, Aged about-43 years, R/o Ward No.09, Mararpara Balod, P.S./Tehsil/District – Balod (C.G.)
2. Khilesh Kumar Dewangan, S/o Late Prem Lal @ Chetan Lal Dewangan, Caste – Koshta, Aged about -37 years, R/o Village – Kohangatola, P.S./Tehsil/District – Balod (C.G.)

---- Petitioners

Versus

1. State of Chhattisgarh, Through – Station House Officer of Police Station – Balod, District – Balod (C.G.)
2. Premshila Lal, W/o M.B. Lal, A/a 68 years, R/o Behind Idgah, Amapara Ward, P.S.- Balod, District – Balod (C.G.)

---- Respondents

For Petitioners : Mr. Prasoon Agrawal, Advocate.
For Respondent No. 1 : Mr. Sudeep Verma, Dy. G. A.
Respondent No. 2 : Mr. Hari Om Rai, Advocate

Hon'ble Shri Justice Narendra Kumar Vyas

Order on Board

02.07.2021

1. The petitioners have preferred instant petition under Section 482 of the Cr.P.C. for quashing of the FIR bearing Crime No. 563/2017 dated 19.12.2017, registered at Police Station Balod, District – Balod under Section 420 read with Section 34 of the Indian Penal Code on the ground of compromise arrived at between the petitioners and respondent No.2/complainant.
2. The facts as projected by the petitioners are that respondent No.2/complainant preferred complaint before respondent No. 1/State alleging therein that at the relevant point of time, the petitioners were involved in the business of sale and purchase of the land. The complainant had purchased a land through petitioner No. 1 and had to pay Rs.21 lakhs to petitioner No. 1, out of which she had already paid substantial amount and only

Rs.7 lakhs was remaining to be paid. It was further alleged that petitioners assured the complainant and her husband that they will assist them in obtaining loan of Rs.7 lakhs from the Bank and they took papers of the property of the complainant and fraudulently obtained loan for complainant by mortgaging her property. During pendency of the investigation, the respondent No. 2, complainant informed the Superintendent of Police, District- Baloda-Bazar vide her letter dated 28.01.2021 that now there is no dispute with the petitioners as property which was mortgaged by them has been released and the document has already given to her as such she is not interested to take further action of her complaint.

3. This Court vide order dated 9.6.2021 notice issued to the respondent No. 2 and also directed the petitioners and respondent No. 2/complainant to get their statements recorded before the Additional Registrar (Judicial) on 24th June, 2021. Pursuant to which, they have appeared before the Additional Registrar (Judicial) on 24th June, 2021 and recorded their statements stating in unequivocal terms that now there is no dispute between them, respondent No. 2/complainant is not willing to continue with the criminal proceedings and prayed for quashment of the FIR bearing Crime No. 563/2017 dated 19.12.2017 registered at Police Station Balod, District Balod and she has stated that she has voluntarily deposed her statement, it has been executed without fear, pressure or undue influence from the petitioners.

4. Hon'ble 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

¹ (2019) 5 SCC 688

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.”

5. 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 abuse of process of law. Accordingly, FIR bearing Crime No. 563/2017 dated 19.12.2017 registered at Police Station Balod, District Balod for committing offence punishable under Section 420 read with Section 34 of I.P.C., deserve to be and is hereby quashed in the interest of justice.
6. In view of the above, the present petition is allowed. No order as to costs.

Sd-

(Narendra Kumar Vyas)

Judge