

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 580 of 2021

- Mukesh Kumar Banjare S/o Shri Baliram Banjare Aged About 28 Years
R/o Village And Post- Khaija, Tahsil Baloda, District Janjgir-Champa,
Chhattisgarh.

---- Petitioner

Versus

1. State of Chhattisgarh Through Station House Officer, Police Station
Baloda, District Janjgir-Champa, Chhattisgarh., District : Janjgir-
Champa, Chhattisgarh
2. Fino Payments Bank Through Branch Manager, Janjgir, District
Janjgir-Champa, fino Payments Bank, Janjgir, Police Station Janjgir,
District Janjgir-Champa, Chhattisgarh., District : Janjgir-Champa,
Chhattisgarh

---- Respondents

For Petitioner : Shri Vivek Agrawal, Advocate

For State : Smt. M. Asha, Panel Lawyer

For Respondent No.2 : Mr. Anuj Shrivastava, Advocate

Hon'ble Shri Justice Narendra Kumar Vyas

Order on Board

05-08-2021

1. The petitioner has preferred the present petition under Section
482 of the Cr.P.C seeking quashment of the FIR No. 243 of
2019 registered at Police Station Baloda District Janjgir-Champa
for the offence punishable under Sections 409, 420 34 of IPC
whereby the concerned Police Station has taken cognizance as
per FIR vide Crime No. 243 of 2019.
2. The case of the prosecution, in brief, is that respondent No.2
Amit Shrivastava, Branch Manager of FINO Payment Bank,
Janjgir-Champa on 9-11-2019 lodged a written report against the
present petitioner, Sitaram Rathore and Gajanand Rathore
alleging therein that the said FINO Bank has been authorized by
ICICI Bank for payment to the labourers engaged in National

Employment Guarantee Scheme. For the said purpose, co-accused Sitaram Rathore was authorized to deposit and withdraw the amount. It is further alleged that Sitaram Rathore digitally transferred a sum of Rs.11,47,000/- to the accounts of the labourers directly from ICICI bank which was against the rules. Thereafter, out of the said amount, Sitaram Rathore transferred Rs.9,47,000/- to the FINO Bank account of his associate Mukesh Kumar Banjare (petitioner herein) and his brother Gajanand Kumar Rathore (co-accused) and subsequently, the said amount was transferred to the State Bank account and withdrawn by them. In this way, co-accused Sitaram Rathore in association with the petitioner and co-accused Gajanand Rathore in a fraudulent manner for their illegal gains have committed fraud with the FINO Bank. On the report being lodged to the above effect, the aforesaid offences punishable under Sections 409, 420 34 of IPC has been registered against the accused persons.

3. Learned counsel for the petitioner would submit that he has filed the present Cr.M.P. for quashing of the FIR bearing Crime No. 243 of 2019 registered at Police Station Baloda District Janjgir Champa (CG) for the offence punishable under Sections 409, 420, 34 of IPC on the strength of settlement arrived between the petitioner and respondent No. 2 and now they don't want to continue with the criminal case.
4. This Court vide its order dated 27-7.2021 has directed the petitioner and respondent No. 2 to appear before the Additional Registrar (Judicial) of this Court for recording of their statements on 2-8-2021. 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 FIR bearing No. 243 of 2019 registered at Police Station Baloda District Janjgir Champa (CG) for the offence punishable under Sections 409, 420, 34 of IPC. Respondent No.2 has stated that he has voluntarily deposed that statement, it has been executed without fear, pressure or undue influence from the petitioner.

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 proceedings in respect of non-compoundable offences, which are private in nature and do not have a serious impart 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. Though the offence under Sections 409 and 420 of IPC is non compoundable but this can be quashed with the leave of this Court.
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 abuse of process of law. Accordingly, FIR bearing No. 243 of 2019 registered at Police Station Baloda District Janjgir Champa (CG) for the offence punishable under Sections 409, 420, 34 of IPC deserves to be and is hereby quashed.

¹ (2019) 5 SCC 688

8. In view of the above, the present petition is allowed. No order as to costs.

Sd/-

(Narendra Kumar Vyas)

Judge

Raju