

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 845 of 2018**

- S. Gopal Krishna S/o Sri S. Subraya Holla Aged About 50 Years R/o Karnatka Bank Limited, Head Office- R. F. D. Division, Mahavir Circle, Mangaluru Karnataka, District : Bengaluru, Karnataka

---- Petitioner**Versus**

1. State of Chhattisgarh Through The Station House Officer, Police Station Ganj District Raipur Chhattisgarh.
2. Kripa Shankar Shukla S/o Ambika Prasad Shukla Aged About 33 Years R/o Mahesh Colony, Street No. 1, Srinagar Road Gudiyari, Raipur District Raipur Chhattisgarh.
3. Jyothi Shah W/o Munish Kumar Shah Aged About 43 Years R/o Mahesh Colony, Lane No. 1, Gudiyari, Raipur District Raipur Chhattisgarh.

---- Respondents

For Petitioner	: Shri Kishore Narayan, Adv.
For State	: Shri Gurudev I Sharan, G.A.
For Respondents No. 2 & 3	: Shri Y. C. Sharma, Sr. Advocate with Shri Trivikram Nayak, Adv.

Hon'ble Smt. Justice Rajani Dubey, J.
Order on Board

17.11.2021

1. Heard.
2. By this petition quashing of FIR No. 33/2017 under Section 420, 120B and 409/34 of IPC registered at Police Station Ganj, District Raipur is sought by the petitioner.
3. The present petition has been filed on the ground that the parties have amicably resolved their dispute and petitioner and respondent No. 2 have jointly filed an application under Sections 320(2) and 328 of Criminal Procedure Code before the learned trial Court for compounding the offences. The

learned Judicial Magistrate First Class on 14.03.2018 passed an order wherein the Court below compounded the offence under section 420 of IPC and refused to compound offence under Sections 409 & 120-B of IPC giving the reason that these two Sections (409 & 120-B of IPC) are non-compoundable.

4. The present petition has been filed on that ground that the matter has been amicably resolved between the parties and the complainant does not want to pursue the case against the petitioner.
5. Learned State counsel informed that charge-sheet in this FIR case has been filed before the learned trial Court.
6. Complainant Kripa Shanker Shukla/Respondent No.2 stated in his statement that though the subject matter of dispute has been amicably resolved and now no grievance against the petitioner survives therefore, the proceedings arising out of FIR in question be brought to an end.
7. The Hon'ble Supreme Court in the matter of **Prabhatbai Aahir Vs. State of Gujarat & Another** passed in **(2017) 9 SCC 641** held in para 16 as under:

16. The broad principles which emerge from the precedents on the subject, may be summarised in the following propositions:

16.8. Criminal cases involving offences which arise from commercial, financial, mercantile, partnership or similar transactions with an essentially civil flavour may in appropriate situations fall for quashing where parties have settled the dispute.

16.9. In such a case, the High Court may quash

the criminal proceeding if in view of the compromise between the disputants, the possibility of a conviction is remote and the continuation of a criminal proceeding would cause oppression and prejudice.

8. The Hon'ble Supreme Court has recognized the need of amicable resolution of dispute in cases like the instant one in **Gian Singh Vs. State of Punjab and Another** in (2012) v **10 SCC 303** by observing as under:

“In other words, the High Court must consider whether it would be unfair or contrary to the interest of justice to continue with the criminal proceeding or continuation of the criminal proceeding would tantamount to abuse of process of law despite settlement and compromise between the victim and the wrongdoer and whether to secure the ends of justice, it is appropriate that the criminal case is put to an end and if the answer to the above question(s) is in the affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding.”

9. It is a well settled law that where the High Court is convinced that the offences are entirely personal in nature and, therefore, do not affect public peace or tranquility and where it feels that quashing of such proceedings on account of compromise would bring about peace and would secure ends of justice, it should not hesitate to quash them. In such cases, pursuing prosecution would be waste of time and energy. Non-compoundable offences are basically an obstruction in entering into compromise. In certain cases the main offence is compoundable but the connected offences are not. In the case of **B.S. Joshi and Others Vs. State of Haryana and**

another (2003) 4 SCC 675 the Hon'ble Apex Court observed that even though the provisions of Section 320 Cr.P.C. would not apply to such offences which are not compoundable, it did not limit or affect the powers under Section 482 Cr.P.C. In the nutshell, the Hon'ble Apex Court justified the exercise of powers under Section 482 Cr.P.C. to quash the proceedings to secure the ends of justice in view of the special facts and circumstances of the case, even where the offences were non-compoundable.

10. In the light of the aforesaid matters, this Court is of the view that notwithstanding the fact the offence under Section 409 and 120-B IPC are non-compoundable offence, there should be no impediment in quashing the FIR under these Sections, if the Court is otherwise satisfied that the facts and circumstances of the case so warrant.

11. In the facts and circumstances of this case and in view of statement made by the respondent No.2, the FIR in question warrants to be put to an end and proceedings emanating thereupon need to be quashed.

12. Accordingly, this petition is allowed and FIR No. 33/2017 dated 28.01.2017 under Sections 409 and 120-B of IPC registered at Police Station Ganj, Raipur (C.G.) and the proceedings emanating therefrom are quashed against the petitioner.

13. The petition is accordingly disposed of.

Sd/-

(Rajani Dubey)
Judge

V/-