

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPCR No. 116 of 2017

- Sanjeev Bothra S/o Shri Punam Chand Bothra, Aged About 42 Years
R/o Flat No. 505, Wallford Enclave, Behind Ramkrishna Care Hospital,
Raipur, Tahsil And District Raipur Chhattisgarh Civil And Revenue
District Raipur., Chhattisgarh ----- **Petitioner**

Versus

1. State of Chhattisgarh Through The Station House Incharge, Police
Station Frazerpur Parpa , Jagdalpur, District Bastar Chhattisgarh.,
Chhattisgarh
2. Rahul Jain, S/o Moolchand Jain, Aged About 38 Years R/o H I G- 157,
Padmanabhpur, Durg., District : Durg, Chhattisgarh

---- Respondents

For Petitioner : Shri Himanshu Pandey, Advocate
For State : Shri Rakesh Sahu, Dy. Govt. Advocate
For Respondent No.2 : None appears

Hon'ble Shri Justice Narendra Kumar Vyas

Order on Board

22-7-2021

1. The petitioner has filed the instant writ petition (cr) seeking quashment of the FIR No. 33313015170005 dated 8-1-2017 registered at Police Station Frazerpur, District Bastar (CG) for offence punishable under Sections 403 and 406 of IPC against the petitioner.
2. The brief facts, as projected by the petitioner, are that the petitioner and Smt. Shakun Jain, mother of complainant /respondent No.2 Rahul Jain entered into a partnership as per partnership deed constituted on 31-3-2009 and as per the partnership deed, the partnership is to run in the name and style of M/s Bastar Minerals, Jagdalpur and main business of the partnership was handling and crushing of iron ore, lumps and other minerals etc. As per partnership deed, the petitioner is entitled to get the profit to the tune of 10% whereas ratio of profit and loss was 40, 30 & 30% respectively. The dispute arose

between them in the crux of the business, therefore, though the dispute is in civil nature, respondent No.2 filed a complaint under Sections 403 and 406 of IPC against the petitioner.

3. Learned counsel for the petitioner would submit that since the dispute arose between the parties is purely civil dispute, therefore, registration of FIR is nothing, but to abuse of process of law. On 14-6-2021 when the matter was listed, learned counsel for the petitioner would submit that during pendency of the writ petition (cr) No. 116 of 2017. The settlement has been arrived at between the parties. The petitioner has already been acquitted from the charge leveled him under Section 403 and 406 of IPC vide order dated 10-1-2018 passed by Chief Judicial Magistrate, Bastar, on account of settlement. Therefore, he prayed that this matter be listed before the Additional Registrar (Judicial) of this court for recording their statements. On the prayer made by learned counsel for the petitioner, the matter was listed before Additional Registrar (Judicial) of this court on 7-7-2021. The petitioner and respondent No.2 along with their counsels entered their appearance before the Additional Registrar (Judicial), their statements have been recorded in which they have 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 the FIR No. 33313015170005 dated 8-1-2017 registered at Police Station Frazerpur, District Bastar (CG). They have stated that they have voluntarily deposed that statement, it has been executed without fear, pressure or undue influence from the petitioner.
4. 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

¹ (2019) 5 SCC 688

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.”

5. Though the offence under Sections 403 and 406 of IPC are not compoundable but this can be quashed with the leave of this Court.
6. 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 registration No. 33313015170005 dated 8-1-2017 registered against the petitioner at Police Station- Frazwerpur, District Bastar for committing offence punishable under Sections 403 and 406 of I.P.C., deserves to be and is hereby quashed in the interest of justice.
7. In view of the above, the present petition is allowed. No order as to costs.

Sd/-

(Narendra Kumar Vyas)

Judge