

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPCR No. 633 of 2020**

1. Roopanshi Jayant Bhatt, D/o Jayant Bhatt, Aged about 30 years, R/o C-407, 4th Floor, Shirin Sohrab Palace, Nariman Road, Vile Parle East, Mumbai – 400057.
2. Mr. Micky Chottu Panjwani, Aged about 40 years, Residing at A-605, sachinam Heights Behind Matru Mandir, Jivaji Dadaji Marg Grant Road, Mumbai – 400007 Palace, Nariman Road, Vile Parle East, Mumbai – 400057.

---Petitioners**Versus**

1. State of Chhattisgarh, Through the Station House Officer, Police Station Pandri, District Raipur, Chhattisgarh.
2. Moulik Jain, S/o Ashish Jain, Aged about 25 years, Residing at Amaltas Malshri Vihar, Raipur, Chhattisgarh.

--- Complainant**--- Respondents**

For Petitioners :-

Mr. Rajesh Sharma and Mr. Arjit Tiwari, Advocates

For Respondent No. 1/State :-

Mr. Animesh Tiwari, Dy. Advocate General

For Respondent No. 2 :-

Mr. Maneesh Sharma, Advocate

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

28/01/2021

1. The petitioners herein seek quashment of FIR No. 172/2020 registered against them by the respondent No. 2/complainant at Police Station – Pandri, Raipur for offence punishable under Section 420 of IPC mainly on the ground that the dispute pertaining between the parties is a pure and simple civil dispute and the continuance of further proceedings of the FIR would be a serious abuse of the process of the Court as looking to the ingredients of the FIR, no offence under Section 420 of the IPC is made out against the petitioners, and on the additional ground taken by the petitioners that at the time of grant of bail to petitioner No. 2 under Section 439(1) of CrPC, the dispute has been settled amicably between the parties as the petitioners had already paid the amount of ₹ 25,00,000/- to respondent No. 2/complainant and now, during the pendency of this writ petition, two post-dated

cheques amounting to ₹ 70,00,000/- have also been issued in favour of respondent No. 2/complainant.

2. Pursuant to the filing of the instant writ petition, respondent No. 2/complainant has also filed an affidavit before the Court stating that two post-dated cheques of ₹ 70,00,000/- have already been issued by the petitioners in his favour, as such, the dispute has been settled amicably between him and the petitioners.

3. Mr. Rajesh Sharma, learned counsel for the petitioners, would submit that though no offence under Section 420 of IPC is made out against the petitioners as per the challenge made in the instant petition as the dispute between the petitioners and respondent No. 2/complainant is purely of civil nature, yet by way of precaution and by acting bonafidely, the disputed amount has already been paid by the petitioners which has been accepted by respondent No. 2/complainant, therefore, the FIR in question deserves to be quashed on merits as well as on the basis of compromise.

4. Mr. Animesh Tiwari, learned Deputy Advocate General, would submit that it appears that the

dispute has been resolved between the petitioners and respondent No. 2/complainant.

5. Mr. Maneesh Sharma, learned counsel for respondent No. 2/complainant, would submit that an amount of ₹ 25,00,000/- had already been paid by the petitioners and with regard to the remaining amount of ₹ 70,00,000/-, two post-dated cheques have already been issued in favour of respondent No. 2/complainant which have yet to be encashed in the month of April, 2021, as such, the dispute has amicably been settled between the parties as per the affidavit filed before this Court.

6. I have heard learned counsel for the parties, considered their submissions and perused the records with utmost circumspection.

7. The Supreme Court, in the matter of **Parbatbhai Aahir Alias Parbatbhai Bhimsinhbhai Karmur and Others v. State of Gujarat and Another**¹, has laid down the broad principles for quashing criminal proceedings on the basis of compromise between the parties. Paragraph 16 of the judgment states as under :-

¹ (2017) 9 SCC 641

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

16.1. Section 482 preserves the inherent powers of the High Court to prevent an abuse of the process of any court or to secure the ends of justice. The provision does not confer new powers. It only recognises and preserves powers which inhere in the High Court;

16.2. The invocation of the jurisdiction of the High Court to quash a First Information Report or a criminal proceeding on the ground that a settlement has been arrived at between the offender and the victim is not the same as the invocation of jurisdiction for the purpose of compounding an offence. While compounding an offence, the power of the court is governed by the provisions of Section 320 of the Code of Criminal Procedure, 1973. The power to quash under Section 482 is attracted even if the offence is non-compoundable.

16.3. In forming an opinion whether a criminal proceeding or complaint should be quashed in exercise of its jurisdiction under Section 482, the High Court must evaluate whether the ends of justice would justify the exercise of the inherent power;

16.4. While the inherent power of the High Court has a wide ambit and plenitude it has to be exercised; (i) to secure the ends of justice or (ii) to prevent an abuse of the process of any court;

16.5. The decision as to whether a complaint or First Information Report should be quashed on the ground that the offender and victim have settled the dispute, revolves ultimately on the facts and circumstances of each case and no exhaustive elaboration of principles can be formulated;

16.6. In the exercise of the power under Section 482 and while dealing with a plea that the dispute has been settled, the High Court must have due regard to the nature and gravity of the offence. Heinous and

serious offences involving mental depravity or offences such as murder, rape and dacoity cannot appropriately be quashed though the victim or the family of the victim have settled the dispute. Such offences are, truly speaking, not private in nature but have a serious impact upon society. The decision to continue with the trial in such cases is founded on the overriding element of public interest in punishing persons for serious offences;

16.7. As distinguished from serious offences, there may be criminal cases which have an overwhelming or predominant element of a civil dispute. They stand on a distinct footing in so far as the exercise of the inherent power to quash is concerned;

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; and

16.10. There is yet an exception to the principle set out in propositions (viii) and (ix) above. Economic offences involving the financial and economic well-being of the state have implications which lie beyond the domain of a mere dispute between private disputants. The High Court would be justified in declining to quash where the offender is involved in an activity akin to a financial or economic fraud or misdemeanor. The consequences of the act complained of upon the financial or economic system will weigh in the balance."

8. Reverting to the facts of the present case in light of the aforesaid legal position, it is quite vivid that the dispute between the parties has been settled amicably which is apparent from the order dated 03/11/2020 passed by the trial Court as well as the order dated 08/01/2021 passed by this Court as the disputed amount has been returned by the petitioners to the respondent No. 2/complainant out of which ₹ 25,00,000/- have already been encashed and the remaining amount of ₹ 70,00,000/- has been paid by two post-dated cheques which have been accepted by respondent No. 2/complainant though they are yet to be encashed in the month of April, 2021. Since, the offence under Section 420 of IPC is compoundable with the leave of the Court, therefore, considering the entire facts of the case and the material available on record and further considering that matter has been compromised between the parties, continuance of further proceeding of the FIR would be absolutely inexpedient and would also not be in the interest of justice. Thus, following the aforesaid decision of the Supreme Court in Parbatbhai (supra), FIR No. 172/2020 registered against the

petitioners at Police Station – Pandri, Raipur is hereby quashed. The bail bonds are hereby discharged and since it is deposited in the Court cash, it will be refunded to petitioner No. 2 as per rules.

9. Accordingly, the instant writ petition is allowed. No cost(s).

Sd/-
(Sanjay K. Agrawal)
Judge

Harneet