

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPCR No. 837 of 2019

- Pradeep Chandrakar S/o Surendra Chandrakar Aged About 28 Years
Occupation Patwari, Posted At Kawardha, R/o Ghorpendri, Police
Station Pandatarai, Tahsil Pandaria, District Kabirdham Chhattisgarh.,
District : Kawardha (Kabirdham), Chhattisgarh

---- Petitioner

Versus

1. State of Chhattisgarh Through The Station House Officer, Police
Station, Sarkanda, District Bilaspur Chhattisgarh., District : Bilaspur,
Chhattisgarh
2. Dr. Sanjay Banjare S/o Shri P.C. Banjare Aged About 30 Years R/o
Rajkishore Nagar, Bilaspur Chhattisgarh., District : Bilaspur,
Chhattisgarh

---- Respondents

For Petitioner : Mr. Goutam Khetrapal, Advocate.
For State : Mr. Devendra Pratap Singh, Dy.A.G.
For Respondent No.2 : Mr. Qamrul Aziz, Advocate

Hon'ble Shri Justice Narendra Kumar Vyas

Order on Board

13-08-2021

1. The petitioner has filed the present petition under Article 226 of the Constitution of India, seeking quashment of FIR No. 33317057181006 registered at Police Station Sarkanda, District Bilaspur, for the offence punishable under Section 420 of IPC and Sections 6 & 10 of the Chhattisgarh Protection of Depositors Interest Act, 2005.
2. The case of the prosecution, in brief, is that the complainant/respondent No.2 lodged FIR in Police Station Sarkanda alleging that Arun Verma, who is proprietor of Education Academy with the help of one Satanand and present petitioner induced him to pay sum of Rs.39,00,000/- in the business. Thereafter, some amount invested by the complainant was refunded by Arun Verma and remaining amount has not been returned. Therefore, the complainant filed complaint in

Police Station on the basis of which FIR was lodged against the present petitioner for the offence punishable under Section 420 of IPC and Sections 6 & 10 of Chhattisgarh Protection of Depositors Interest Act, 2005.

3. Learned counsel for the petitioner would submit that after filing of FIR, petitioner and complainant/respondent No.2 have settled their disputes and the petitioner has returned their money. He would further submit that he has filed the present Writ (cr) for quashing of the FIR No. 33317057181006 registered in Police Station against the petitioner on the strength of settlement arrived at 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 5-8-2021 has directed the petitioner and respondent No. 2 to appear before the Additional Registrar (Judicial) of this Court for recording of their statements on 10-08-2021. In pursuance of 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 the FIR in connection with aforesaid crime numbers. Complainant/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;

¹ (2019) 5 SCC 688

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.”

6. Though the offence under Sections 420 of IPC and Sections 6 & 10 of Chhattisgarh Protection of Depositors Interest Act, 2005 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 FIR No.33317057181006 registered 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 No. 33317057181006 registered against the petitioner at Police Station Sarkanda, Bilaspur, Dist. Bilaspur, for committing offence punishable under Sections 420 of IPC and Sections 6 & 10 of the Chhattisgarh Protection of Depositors Interest Act, 2005 deserves to be and is hereby quashed
8. In view of the above, the instant writ petitions (cr) is allowed. No order as to costs.

Sd/-

(Narendra Kumar Vyas)

Judge

Raju