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HIGH COURT OF CHHATTISGARH, BILASPUR

Writ Petition (Cr.) No. 913 of 2019

Raghvendra Das Vaishnav, S/o. Late Narendra Das Vaishnav,
aged about 54 years, R/o. Anushtha Residency, Junwani Bhilai,
District Durg, Chhattisgarh.

Versus

1. State of Chhattisgarh, through Police Station Pulgaon District Durg (C.G.).
2. Digambar Patil, S/o. Late Manohar Jankiram Patil, aged about 67 years, R/o. MIG-1/144, Road No. 4, Aamdi Nagar, Hudco Bhilai, District Durg, Chhattisgarh.
(Complainant)

---- Respondents

For Petitioner	: Mr. Vivek Mishra, Advocate on behalf of Mr. Manoj Paranjpe, Advocate
For Respondent No. 1	: Mr. Vikash Shrivastava, P. L.
For Respondent No. 2	: Mr. Anurag Jha, Advocate

Hon'ble Shri Justice Narendra Kumar Vyas

Order on Board

24.08.2021.

1. By way of filing the instant petition under Article 226 of the Constitution of India, the petitioner has challenged the registration of FIR bearing Crime No. 410/2019 registered at Police Station Fulgaon on 20.08.2019, for committing an offence under Section 420 of IPC.
2. The facts reflected from perusal of FIR are that the petitioner- Raghvendra Das Vaishnav in the month of February, 2014, has finalized a sale deed for sale of land bearing Khashra No. 66/81 Rakba No. 0.02 Hectare situated at State Bank Colony, Junwani by exchanging his 2400 sq. ft. land (Anushtha residency) situated at Khamhiriya Road, Junwani, but neither he has made payment nor executed the sale deed in this regard, therefore, he has committed fraud and offence of cheating.

3. This Court, vide its interim order, dated 18.09.2019, has directed that no coercive steps shall be taken against the petitioner till the next date of hearing, therefore, in pursuance of the Interim relief order granted to the petitioner, no final report has been submitted by the Police.
4. During pendency of the petition, a settlement has been arrived at between the petitioner and the respondent and an understanding was prepared. The relevant paragraph of the said understanding is extracted below :-
 - “a. That at first the Second party undertakes to handover the Demand Draft amounting to Rs.6,00,000.00 (inWords Six) bearing DD No. 759681 and Demand draft amounting to Rs. 4,00,000.00/- (In words Four Lakhs) bearing DD no. 759680 issued from the Canara Bank, Smriti Nagar Branch Bhilai.
 - b. An in return the first party undertakes to withdraw the case filed u/S 138 of the Negotiable Instruments Act, 1881 and withdraw the case from Pulgaon Police Station, Durg, and to return the original documents (Sale Deed, Rin Pustika, Agreement, Power of Attorney) pertaining to plot no. 89, at Anushtha residency to the second party and thereafter the second party will at be his own will to dispose the said property in manner suits best to him.
 - c. And if needed in pursuance of withdrawing the cases the first party shall make statements before the High Court, before District and Sessions Court and police authorities in this respect as and when required.
 - d. Thereafter the second party shall hand over the Demand Draft amounting to Rs.8,00,000/- (in words Eight Lakhs) bearing DD no. 759677 issued from Canara Bank, Smriti Nagar Branch.
 - e. And in return to the said DD the first party shall make statements before the Hon'ble High Court regards to the settlement of Dispute amicably and matter has been compromised and shall make efforts to quash the FIR registered as the crime no. 410/2019 at Jevri Sirsa Post, Police Station Pulgaon, District Durg, Chhattisgarh.
 - f. That the first party also undertakes to release the second party from all the disputes / responsibility of completing the registration of Plot no. 37, phase 2, sector 1 from Hanuman Yadav and second party will no more be responsible for said task and completing the registration process of the said plot will be sole responsibility of First Party.”
5. Thereafter, the petitioner & Respondent have filed an application under Section 320 (2) of Cr.P.C. for quashing of FIR on the basis of the settlement arrived at between the parties. This Court vide its order dated 17.08.2021, has directed the parties to appear before the

Registrar (Judicial) for recording their statement. 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 the FIR No. 410/2019 and he has stated that he has voluntarily deposed his statement, it has been executed without fear, pressure or undue influence from the petitioners.

6. 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 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.”

7. In view of the said legal position, considering the facts and circumstances of the case, considering 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.410/2019 registered against the petitioner at Police Station- Fulgaon, District Durg for committing offence punishable under Section 420 of I.P.C., deserve 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.
9. Copy of this order be sent to the concerned police station for necessary compliance and closure of the proceedings.

**Sd-
(Narendra Kumar Vyas)
Judge**

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