

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****WPCR No. 1236 of 2019**

1. Rajat Chitlangiya, son of Shri G. K. Chitlangiya, aged about 46, working as Director, Swiss Singapore India Pvt. Ltd. Registered Office 204-205, Rayson Arcade, 1st Floor, Sector 8 Gandhidham, Gujarat.
2. Babulal Bothra, son of Shri Chianroop Bothra, aged about 51 years, Director Swiss Sigapore India Pvt. Ltd. Registered office Rayson Arcade, 1st Floor, Sector 8 Gandhidham, Gujarat,
3. Ravi Kumar Garg, son of Shri Anand Swaroop Garg, aged about 49 years, redsident of 10 Comacstreet, Kolkata, West Bengal.
4. Rakesh Shelar, son of Shri Babulal Shelar, aged about 49, at Unit 2903, 1 by Omniyat, Off Sheikh Zayad Road, Business Bay, Dubai.
5. Sunil Khosla, son of Shri O. P. Khosla, aged about 59 years at 701, Bhikaji, Bhawan, Bhikaji, Complex New Delhi, New Delhi, India.
6. Debasis Panda, son of Shri Achutanand Panda, aged about 40 years, resident of Bhawanipatna, Tahseel Sadar Kalahandi.

---- Petitioners**Versus**

1. State of Chhattisgarh, through Secretary, Department of Home Affairs, Mantralaya Mahanadi Bhawan, Atal Nagar, New Raipur, District Raipur, Chhattisgarh.
2. Superintendent of Police, Janjgir- Champa, District Janjgir-Champa, Chhattisgarh.
3. Station House Officer, Police Station Champa, District Janjgir-Champa, Chhattisgarh.
4. Vinay Kumar Das, son of Shri Bholanath Das, aged about 52 years, resident of Prakash Kunj Colony, Prakash Industries Limited, Champa, District- Janjgir- Champa, Chhattisgarh.

---- Respondents

For Petitioners	: Mr. Sumit Singh, Advocate
For State	: Mr. Sudeep Verma, Dy. G. A.
Respondent No. 4	: Mr. Abhishek Sinha, Sr. Advocate alongwith Mr. Aditya Pandey, Advocate

Hon'ble Shri Justice Narendra Kumar Vyas**Order on Board****02.07.2021**

1. The petitioners have filed the present petition under Section 482 of the Cr.P.C. seeking quashment of the impugned FIR No. 0017/2019 registered at Police Station Champa for offence punishable under

Section 406 of the IPC.

2. The facts as projected by the petitioners are that the complainant/respondent No. 4, who is Law Officer of Prakash Industries Limited situated at Champa Bypass Road, District Janjgir Champa lodged FIR No.0017/2019, at Police Station Champa against petitioners for commission of offence under Section 406 of IPC alleging that Respondent No. 4 has approached the petitioners' company named and styled as M/s Swiss Singapore India Private Limited for supply of Coal, which was required to be imported for their use. After due negotiation, authorized signatory of the Respondent No. 4/Company namely Shri A.K. Singh entered into two agreements of sale with the authorized signatory of the petitioners' Company for purchase of 8000 MT of steam Coal standard RB-3 on 17.04.2018 on terms and conditions specified therein and another purchase of 16,000 MT of Steam Coal Standard RB-2 on 27.04.2018. These two agreements of sale were executed on 17.04.2018 and 27.04.2018 respectively. Thereafter, another agreement was executed on 21.06.2018 for purchase of 48,000 MT of Steam Coal Standard RB-2 on terms and conditions specified therein. As per terms and conditions of the agreement Petitioners' Company performed its contractual obligation by delivering coal to the respondent No. 4 at the agreed quality, quantity and price. Respondent No. 4, in turn, has given the cheque bearing No. 455874 amount to Rs. 2,45,00,000/- [Rupees Two Crore Forty Five Lakhs Only) on 30.9.2018 drawn in favour of Ms. Swiss Singapur India private Ltd. as advance.
3. Thereafter, some dispute arose between the parties and on account of which above mentioned agreements were cancelled vide email communication dated 30.09.2018. When the above mentioned cheque was presented for clearing on 17.02.2018, the same was returned unpaid on 18.08.2018 on account of "payment stopped by drawer". The petitioners' Company has filed a complaint for dishonour of the Cheque on 22.10.2018 before the Metropolitan Magistrate, Patiyala House Court, New Delhi, which was registered against the respondent's No. 4 Company and its office bearers and the summons were issued thereafter the respondent No. 4 through his Law Officer has also lodged FIR against the Petitioners' Company on 06.01.2019 for commission of offence under Section 406 of IPC contending that the cheque was given by way of guarantee but fraudulently they have used the cheque as advanced and thereafter the cheque was

dishonored. Thus, they have committed the offence under Section 406 of IPC. This Court has issued notice to the respondent No. 4 on 20.12.2019 and thereafter the respondent No. 4 has entered appearance and filed its return.

4. During pendency of the present Writ Petition (Cr.), an understanding has been arrived between the petitioner and the respondent No. 4 and their dispute was settled amicably outside the Court, therefore, this Court vide order dated 16.04.2021 has directed that petitioners and representative of Prakash Industries for their presence before the Registry of this Court for recording their statements with regard to settlement arrived at between them. In pursuance to the direction of this Court, the petitioner No. 3 and respondent No. 4 entered their appearance and stated in unequivocal terms that now there is no dispute between them, respondent No. 4 is not willing to continue with the criminal proceedings and prayed for quashment of the FIR No. 0017/2019 registered at Police Station- Champa, District- Janjgir-Champa and he has stated that he has voluntarily deposed his statement, it has been executed without fear, pressure or undue influence from the petitioners.
5. Hon'ble the Supreme Court in case of State of Madhya Pradesh Vs. Laxmi Narayan & others¹, 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 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. 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

¹ (2019) 5 SCC 688

criminal proceeding initiated against the petitioners. Further, this court is of the opinion that the continuation of criminal proceeding will be nothing, but to an abuse of process of law.

7. Accordingly, FIR bearing registration No.0017/2019 registered against the petitioners at Police Station- Champa, District Janjgir-Champa for committing offence punishable under Section 406 of I.P.C., deserves to be and is hereby quashed in the interest of justice.
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