

IN THE HIGH COURT OF JHARKHAND, RANCHI

Cr.M.P. No. 576 of 2020

Vijay Kumar Yadav @ Vijay Yadav, aged about 28 years, s/o Rakesh Yadav,
resident of Golabikapura, PO and PS Gulabikapura, Dist. Ajamgarh 206
124 Utter Pradesh Petitioner

-- Versus --

1.The State of Jharkhand
2.Sri Kishore Kumar Singh, aged about 60 years, s/o late Mahendra Prasad
Singh, resident of Babhandih, PO Taleya, PS Chainpur, District Palamau,
Jharkhand Opposite Parties

CORAM: HON'BLE MR. JUSTICE SANJAY KUMAR DWIVEDI

For the Petitioner :- Mr. Amitabh, Advocate
For the State :- Ms. Snehlika Bhagat, APP
For O.P.No.2 :- Mr. Rakesh Kumar, Advocate

6/28.06.2021 Heard Mr. Amitabh, the learned counsel for the petitioner,
Ms. Snehlika Bhagat, the learned State counsel and Mr. Rakesh Kumar,
the learned counsel for the O.P.No.2.

2. This petition has been heard through Video Conferencing in
view of the guidelines of the High Court taking into account the situation
arising due to COVID-19 pandemic. None of the parties have complained
about any technical snag of audio-video and with their consent this
matter has been heard.

3. By way of filing this petition, the petitioner has prayed for
quashing the First Information Report lodged in Sadar (Palamau) Sahar
PS Case No.219/2016 dated 01.09.2016 registered under section 120(B),
406, 420 and 34 of the IPC pending in the court of learned Chief Judicial
Magistrate, Palamau, Daltonganj. The First Information Report was
lodged by the Opposite Party no.2-informant stating that a total sum of
Rs.3,28,000/- was taken by the petitioner for obtaining a dealership of
organic manure. However, the dispute arose and the FIR was lodged.

4. Mr. Amitabh, the learned counsel for the petitioner submits
that now the amount in question has been paid over to the O.P.No.2 by
way of bank draft which is brought on record by way of Annexure-1 to
the I.A. No.2507 of 2020.

5. Mr. Rajesh Kumar, the learned counsel appearing on behalf

of the Opposite Party no.2 submits that the demand draft for Rs.3,28,000/- has been received by the Opposite party no.2 which is annexed as Annexure-1 to the said I.A. He submits that since this matter is arising out of a private dispute and there is no societal interest involved and the parties have compromised in the matter in that view of the matter the FIR may be quashed. He submits that both the parties have sworn the affidavit separately in I.A. No.2507 of 2020 for quashing the FIR.

6. Ms. Snehlika Bhagat, the learned State counsel submits that the sections are compoundable with permission of the Court and since both the parties have compromised the matter the FIR may be quashed.

7. In view of the above fact and on perusal of the FIR it transpires that the amount in question has been paid to the Opposite Party No.2 and the receiving statement to that effect has given in paragraph no.4 of the said I.A. This aspect of the matter has been considered by the Hon'ble Supreme Court in the case of '*Shiji v. Radhika*' reported in (2011) 10 SCC 705. Paragraph nos. 7, 10, 18 and 19 of the said judgment are quoted herein below:

"7. This Court has, in several decisions, declared that the offences under Section 320 CrPC which are not compoundable with or without the permission of the court cannot be allowed to be compounded. In Ram Lal v. State of J&K—this Court referred to Section 320(9) CrPC to declare that such offences as are made compoundable under Section 320 can alone be compounded and none else. This Court declared two earlier decisions rendered in Y. Suresh Babu v. State of A.P. and Mahesh Chand v. State of Rajasthan, to be per incuriam inasmuch as the same permitted composition of offences not otherwise compoundable under Section 320 CrPC."

10. There is another line of decisions in which this Court has taken note of the compromise arrived at between the parties

and quashed the prosecution in exercise of powers vested in the High Court under Section 482 CrPC. In State of Karnataka v. L. Muniswamy this Court held that the High Court was entitled to quash the proceedings if it came to the conclusion that the ends of justice so required. This Court observed: (SCC pp. 702-03, para 7)

"7. ... Section 482 of the new Code, which corresponds to Section 561-A of the Code of 1898, provides that:

'561-A. Saving of inherent power of High Court.—Nothing in this Code shall be deemed to limit or affect the inherent power of the High Court to make such orders as may be necessary to give effect to any order under this Code, or to prevent abuse of the process of any court or otherwise to secure the ends of justice.'

In the exercise of this wholesome power, the High Court is entitled to quash a proceeding if it comes to the conclusion that allowing the proceeding to continue would be an abuse of the process of the court or that the ends of justice require that the proceeding ought to be quashed. The saving of the High Court's inherent powers, both in civil and criminal matters, is designed to achieve a salutary public purpose which is that a court proceeding ought not to be permitted to degenerate into a weapon of harassment or persecution. In a criminal case, the veiled object behind a lame prosecution, the very nature of the material on which the structure of the prosecution rests and the like would justify the High Court in quashing the proceeding in the interest of justice. The ends of justice are higher than the ends of mere law though justice has got to be administered according to laws made by the legislature. The compelling necessity for making these observations is that without a

proper realisation of the object and purpose of the provision which seeks to save the inherent powers of the High Court to do justice, between the State and its subjects, it would be impossible to appreciate the width and contours of that salient jurisdiction.”

18. *Having said so, we must hasten to add that the plenitude of the power under Section 482 CrPC by itself, makes it obligatory for the High Court to exercise the same with utmost care and caution. The width and the nature of the power itself demands that its exercise is sparing and only in cases where the High Court is, for reasons to be recorded, of the clear view that continuance of the prosecution would be nothing but an abuse of the process of law. It is neither necessary nor proper for us to enumerate the situations in which the exercise of power under Section 482 may be justified. All that we need to say is that the exercise of power must be for securing the ends of justice and only in cases where refusal to exercise that power may result in the abuse of the process of law. The High Court may be justified in declining interference if it is called upon to appreciate evidence for it cannot assume the role of an appellate court while dealing with a petition under Section 482 of the Criminal Procedure Code. Subject to the above, the High Court will have to consider the facts and circumstances of each case to determine whether it is a fit case in which the inherent powers may be invoked.*

19. *Coming to the case at hand, we are of the view that the incident in question had its genesis in a dispute relating to the access to the two plots which are adjacent to each other. It was not a case of broad daylight robbery for gain. It was a case which has its origin in the civil dispute between the parties, which dispute has, it appears, been resolved by them. That being so, continuance of the prosecution where the complainant is not ready to support the allegations which are now described by*

her as arising out of some "misunderstanding and misconception" will be a futile exercise that will serve no purpose. It is noteworthy that the two alleged eyewitnesses, who are closely related to the complainant, are also no longer supportive of the prosecution version. The continuance of the proceedings is thus nothing but an empty formality. Section 482 CrPC could, in such circumstances, be justifiably invoked by the High Court to prevent abuse of the process of law and thereby preventing a wasteful exercise by the courts below.

8. In view of the above fact that Opposite Party No.2 has received the amount and no fruitful purpose will serve if the instant petition is not allowed. In view of the above, the Court is inclined to interfere in the matter and accordingly, the FIR dated 01.09.2016 as well as the entire criminal proceeding of Sadar (Palamau) Sahar PS Case No.219/2016 dated 01.09.2016 corresponding to G.R. No.1506/2016 pending in the Court of Chief Judicial Magistrate, Palamau at Daltonganj is quashed.

9. Cr.M.P. No. 576 of 2020 is allowed and disposed of.

10. I.A. No.2507 of 2020 is also disposed of.

(Sanjay Kumar Dwivedi, J)

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