

**IN THE HIGH COURT OF JHARKHAND AT RANCHI**  
**Cr. M.P. No. 2623 of 2019**

1. Rajnish Kumar, aged about 38 years, S/o Shri Suresh Sharma, Resident of House No.51, New AG Cooperative Colony, PO Kadru, PS Argora, District- Ranchi (Jharkhand)
2. Jayendra Madhukar, aged about 48 years, S/o Late Lalan Prasad Sinha, Resident of House No.51, New AG Cooperative Colony, PO Kadru, PS Argora, District- Ranchi (Jharkhand)
3. Vikas Chandra, aged about 45 years, S/o Late Binod Kant Thakur, Resident of House No.51, New AG Cooperative Colony, PO Kadru, PS Argora, District- Ranchi (Jharkhand)
4. Rajiv Ranjan, aged about 45 years, S/o Shri Ramnandan Prasad Singh, Resident of House No.51, New AG Cooperative Colony, PO Kadru, PS Argora, District- Ranchi (Jharkhand) ... **Petitioners**

**-Versus-**

1. The State of Jharkhand
2. Sunil Manohar Wavikar, S/o Late Manohar Ramchandra Wavikar, R/o EPC Industries Ltd., Plot No.109, MIDC Ambad Nasik, P.O. Ambad, P.S. Ambad, District- Nasik (Maharashtra) ... **Opposite Parties**

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**CORAM: HON'BLE MR. JUSTICE SANJAY KUMAR DWIVEDI**

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For the Petitioners	: Mr. Kripa Shankar Nanda, Advocate
For the Opposite Party-State	: Mr. Veer Vijay Pradhan, A.P.P.
For Opposite Party No.2	: Mr. Abhishek Singh, Advocate

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07/16.03.2021. Heard Mr. Kripa Shankar Nanda, learned counsel for the petitioners, Mr. Veer Vijay Pradhan, learned A.P.P. appearing for the opposite party-State and Mr. Abhishek Singh, learned counsel for opposite party no.2.

2. This criminal miscellaneous 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. The petitioners have challenged the validity and legality of the F.I.R. being Argora P.S. Case No.342/2018 dated 30.10.2018 registered for the offence under Sections 420 and 406 of the Indian Penal Code as well as

entire criminal proceeding arising out of the aforesaid case in view of the compromise taken between both the parties, which is pending in the Court of learned S.D.J.M., Ranchi.

4. The said F.I.R. was lodged on the written application of Sunil Manohar Wavikar, who is opposite party no.2 in the present petition and happened to be the Manager Logistics Mahindra EPC Irrigation Limited. The EPC Industries Limited Company is established under Companies Act, 1956 and its registered office is at Nashik and he is the authorized person of the said Company throughout the State of Jharkhand and Bihar for taking any criminal or civil action against any other persons on behalf of the Company. The Company deals with Micro equipment's and business is spread all over the India including Jharkhand and Bihar. The allegation has been made in the F.I.R. that on the basis of an agreement, which was effective for three years i.e. from 01.04.2015 to 31.09.2018, the Company has appointed or selected Genesis Sale Corporation as a CNF Agent and, thereafter the Company was intending to get back its stock from the Genesis Sale Corporation, but the petitioners have refused to meet with the informant and did not return the stock. The allegation was that 390 Pumps amounting to Rs.10.48 Lakhs was with them. Subsequently, the said agreement was cancelled and the accused persons were asked to return the stock and, thereafter, F.I.R. has been lodged.

5. Learned counsel for the petitioners as well as learned counsel for opposite party no.2 jointly submit that now they have entered into a compromise and on the basis of the said compromise, this quashing petition has been filed. The said compromise petition is annexed as Annexure-2 of this petition. They further submit that they have settled the dispute which

are arising out of the business rivalry and they are willing to maintain the good relation in the interest of business. They also submit that F.I.R. has been lodged under Sections 420 and 406 I.P.C., which are compoundable under Section 320 of the Cr.P.C. with the permission of the Court before which any prosecution for such offence is pending and by the person who has been cheated. They further submit that this Court can exercise its power under Section 482 Cr.P.C. They also submit that in the identical situation, the Hon'ble Supreme Court has held that the High Court under Section 482 Cr.P.C., where the case has been compromised, can exercise its power and the F.I.R. can be quashed. They rely upon the judgment rendered by the Hon'ble Supreme Court in the case of **Shiji v. Radhika**, reported in **(2011) 10 SCC 705**.

6. Paragraphs 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.*

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*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."*

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**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.*

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**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.*

7. By relying this judgment, learned counsel for the petitioners as well as learned counsel for opposite party no.2 jointly submit that the F.I.R. may kindly be quashed.
8. Learned counsel for the State also accepts that the law is well settled in view of the judgment relied by the learned counsel for the petitioners as well as learned counsel for opposite party no.2.
9. Having heard learned counsel for the parties and looking into the compromise petition, which has been brought on record as Annexure-2, it transpires that both the parties have compromised the matter. In paragraph 6 of the compromise agreement, it has been stated that the second party will prefer a quashing application before the Court for setting aside the F.I.R. and entire criminal proceeding in which first party will appear through its lawyer and confirm the factum of compromise. In paragraph 8 of the said agreement, it has been stated that both the parties are doing business in same occupation and that is why they want to maintain good relation in the interest of business as now there is no grudge with each other.
10. In view of the above facts and looking into the judgment passed by the Hon'ble Supreme Court in the case of **Shiji v. Radhika** (*supra*) and

also in light of the fact that the petitioners and opposite party no.2 have entered into a compromise, this Court comes to a conclusion that it is a fit case to exercise its jurisdiction under Section 482 Cr.P.C. Accordingly, the F.I.R. being Argora P.S. Case No.342/2018 dated 30.10.2018 and entire criminal proceeding pursuant to that F.I.R. is, hereby, quashed.

11. Accordingly, this criminal miscellaneous petition stands allowed and disposed of.

**(Sanjay Kumar Dwivedi, J.)**

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