

**Court No. - 82**

**Case :-** APPLICATION U/S 482 No. - 37396 of 2012

**Applicant :-** Raju @ Raj Kumar And Others

**Opposite Party :-** State of U.P. and Another

**Counsel for Applicant :-** Ram Raj Pandey

**Counsel for Opposite Party :-** Govt.Advocate

**With**

**Case :-** APPLICATION U/S 482 No. - 39186 of 2023

**Applicant :-** Raju @ Raj Kumar And 2 Others

**Opposite Party :-** State Of U.P. And Another

**Counsel for Applicant :-** Ram Raj Pandey,Shubham Pandey

**Counsel for Opposite Party :-** G.A.

**Hon'ble Ram Manohar Narayan Mishra,J.**

1. Heard Sri Ram Raj Pandey, learned counsel for the applicants, learned AGA for the State and perused the record.
2. Both applications are arising out of same summoning order, same proceedings and informants are co-accused in the same criminal case, hence both the applications are being heard and decided by a common judgment.
3. By means of instant application filed under section 482 Cr.P.C. the applicants have assailed same cognizance order, summoning order dated 10.03.2010 passed by Judicial Magistrate, Baghat and has also prayed for quashing the entire proceedings of S.T. No.497 of 2010 arising out of Case Crime No.294 of 2009, under Sections 498-A, 323, 504, 506, 307 IPC and 3/4 D.P. Act, Police Station Balainee, District Baghat (State Vs. Raju @ Rajkumar and others).
4. According to prosecution version, the informant- Smt. Rinki @ Guddi, (respondent No.2) lodged the first information report at Police Station concerned on 9.11.2009 with averments that she was married with Monu S/o Gulab Giri on 17.6.2009, in which her father given sufficient gifts and dowry up to his financial capacity. Unfortunately, after three months of marriage, in the night of 12/13.9.2009 her husband died. An offer was made by her father-in-law to her father to re-marry the informant with his other son Raju @ Rajkumar due to death of her husband and her marriage was solemnized with Raju @ Rajkumar on 18.9.2009. However, after her marriage with Raju @ Rajkumar, her husband and parents-in-laws started

harassing for non fulfilment of dowry, she narrated her story to her parents and her brother when he came to meet her on 10.01.2009. Her father and family members tried to convinced the persons not to harass her but they did not pay any heed and continued with demand of dowry and on 8.11.2009 11.00 A.M. when she was in her parental house, her husband Raju @ Raj Kumar, parents-in-law and brother-in-law Sonu visited her house and in absence of her parents and family members, who had gone to see paddy crops, they abused, her husband and mother-in-law tried to commit murder by a rope tied around her neck, her father-in-law, brother-in-law assaulted her by a knife and stick, the witnesses came at the place of occurrence to hear her cries and saved her. She got her medical examination at Government Hospital. The police, after investigation filed charge sheet against the applicants under sections 498-A, 323, 504, 506, 307 IPC and 3/4 D.P. Act.

5. Learned counsel for the applicants submits that during pendency of the present applications, under Section 482 Cr.P.C before this Court, parties wished at compromise and this fact has been brought to the notice of this Court in compliance of the order dated 12.4.2024 by this Court, a compromise deed was filed before the court concerned i.e. Ist Additional Sessions Judge, Baghpat and learned court below has verified the compromise on 11.6.2024 and passed an order in this regard. A certified copy of this order dated 11.6.2024 has already been filed with the present application. Therefore, the matter may kindly be decided on the basis of compromise and proceedings pending before the court below may be quashed in the light of the compromise agreed by the complainant and accused persons. He lastly submitted that dispute between the parties being essentially matrimonial in nature and this is in the interest of justice and family peace the proceedings of trial court be quashed accordingly.

6. Per contra, learned AGA submits that the applicants are prosecuted in a case under sections 498A, 323, 504, 506, 307 IPC and Section 3/4 D.P. Act before the Sessions Court and charge under section 307 IPC of being serious in nature and proceedings against the applicants should not be quashed on the basis of compromise. However, it is admitted fact that this Court can exercise its power under Section 482 Cr.P.C to scuttle the proceeding, on the basis of compromise even in non-compoundable offences but where the offences are serious and heinous in nature which affects the society at large then this Court should not quash the proceedings pending against the accused persons on the basis of compromise arrived between the parties.

7. From perusal of the first information report itself appears that informant had not suffered any serious injury in the hands of accused persons. She herself visited the police station to lodge the FIR.

8. The Apex Court in catena of judgements held that this Court can exercise its power vested under section 482 Cr.P.C. beyond the boundaries of Section 320 Cr.P.C. which states that only compoundable offence can be compounded and this Court can even quash the proceedings relate to non-compoundable offences on the basis of the compromise executed between the parties but at the same time Apex Court cautioned that the proceeding of serious and heinous offences which affects the society at large, should not be quashed on the basis of compromise executed between the parties.

9. The three Judges Bench of the Apex Court in **Gian Singh Vs. Punjab**, reported in **(2012)10 SCC 303** discussed the circumstances very elaborately and held that this Court can quash the proceedings in the cases of non-compoundable offences on the basis of settlement arrived at between the parties and observed as follow:-

"58. Where the High Court quashes a criminal proceeding having regard to the fact that the dispute between the offender and the victim has been settled although the offences are not compoundable, it does so as in its opinion, continuation of criminal proceedings will be an exercise in futility and justice in the case demands that the dispute between the parties is put to an end and peace is restored; securing the ends of justice being the ultimate guiding factor. No doubt, crimes are acts which have harmful effect on the public and consist in wrongdoing that seriously endangers and threatens the well-being of the society and it is not safe to leave the crime-doer only because he and the victim have settled the dispute amicably or that the victim has been paid compensation, yet certain crimes have been made compoundable in law, with or without the permission of the court. **In respect of serious offences like murder, rape, dacoity, etc., or other offences of mental depravity under IPC or offences of moral turpitude under special statutes, like the Prevention of Corruption Act or the offences committed by public servants while working in that capacity, the settlement between the offender and the victim can have no legal sanction at all.** However, certain offences which overwhelmingly and predominantly bear civil flavour having arisen out of civil, mercantile, commercial, financial, partnership or such like transactions or the offences arising out of matrimony, particularly relating to dowry, etc. or the family dispute, where the wrong is basically to the victim and the offender and the victim have settled all disputes between them amicably, irrespective of the fact that such offences have not been made compoundable, the High Court may within the framework of its inherent power, quash the criminal proceeding or criminal complaint or FIR if it is satisfied that on the face of such settlement, there is hardly any likelihood of the offender being convicted and by not quashing the criminal proceedings, justice shall be casualty and ends of justice shall be defeated. The above list is illustrative and not exhaustive. Each case will depend on its own facts and no hard-and-fast category can be prescribed".

10. In **Nareinder Singh Vs. State of Punjab** reported in **(2014) 9 SCC 466**, the Supreme Court held that in case of heinous and serious offences, which are generally to be treated as crime against society, it is the duty of the State to punish the offender. Hence, even when there is a settlement, the view of the offender will not prevail since it is in the interest of

society that the offender should be punished to deter others from committing a similar crime.

11. The Three Judges Bench of the Apex Court in the case of **Parbatbhai Aahir Alias Parbathbhai Bhimsinhbhai Karmur and Others V. State of Gujrat and Another** reported in [(2017) 9 SCC 641], after discussing its earlier judgements observed as follows:-

"16. The broad principles which emerge from the precedents on the subject, may be summarised in the following propositions:

16.1. Section 482 preserves the inherent powers of the High Court to prevent an abuse of the process of any court or to secure the ends of justice. The provision does not confer new powers. It only recognises and preserves powers which inhere in the High Court.

16.2. The invocation of the jurisdiction of the High Court to quash a first information report or a criminal proceeding on the ground that a settlement has been arrived at between the offender and the victim is not the same as the invocation of jurisdiction for the purpose of compounding an offence. While compounding an offence, the power of the court is governed by the provisions of Section 320 of the Code of Criminal Procedure, 1973. The power to quash under Section 482 is attracted even if the offence is non-compoundable.

16.3. In forming an opinion whether a criminal proceeding or complaint should be quashed in exercise of its jurisdiction under Section 482, the High Court must evaluate whether the ends of justice would justify the exercise of the inherent power.

16.4. While the inherent power of the High Court has a wide ambit and plenitude it has to be exercised (i) to secure the ends of justice, or (ii) to prevent an abuse of the process of any court.

16.5. The decision as to whether a complaint or first information report should be quashed on the ground that the offender and victim have settled the dispute, revolves ultimately on the facts and circumstances of each case and no exhaustive elaboration of principles can be formulated.

**16.6. In the exercise of the power under Section 482 and while dealing with a plea that the dispute has been settled, the High Court must have due regard to the nature and gravity of the offence. Heinous and serious offences involving mental depravity or offences such as murder, rape and dacoity cannot appropriately be quashed though the victim or the family of the victim have settled the dispute. Such offences are, truly speaking, not private in nature but have a serious impact upon society. The decision to continue with the trial in such cases is founded on the overriding element of public interest in punishing persons for serious offences.**

16.7. As distinguished from serious offences, there may be criminal cases which have an overwhelming or predominant element of a civil dispute. They stand on a distinct footing insofar as the exercise of the inherent power to quash is concerned.

16.8. Criminal cases involving offences which arise from commercial, financial, mercantile, partnership or similar transactions with an essentially civil flavour may in appropriate situations fall for quashing where parties have settled the dispute.

16.9. In such a case, the High Court may quash the criminal proceeding if in view of the compromise between the disputants, the possibility of a conviction is remote and the continuation of a criminal proceeding would cause oppression and prejudice; and

16.10. There is yet an exception to the principle set out in propositions 16.8. and 16.9. above. Economic offences involving the financial and economic well-being of the State have implications which lie beyond the domain of a mere dispute between private disputants. The High Court would be justified in declining to quash where the offender is involved in an activity

akin to a financial or economic fraud or misdemeanor. The consequences of the act complained of upon the financial or economic system will weigh in the balance."

12. The Three Judge Bench of the Apex Court in **State of Madhya Pradesh V. Laxmi Narayan & Ors.** reported in **(2019) 5 SCC 688** laid down the following principles:-

15. Considering the law on the point and the other decisions of this Court on the point, referred to hereinabove, it is observed and held as under:

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;

**15.2. Such power is not to be exercised in those prosecutions which involved heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. Such offences are not private in nature and have a serious impact on society;**

15.3. Similarly, such power is not to be exercised for the offences under the special statutes like the Prevention of Corruption Act or the offences committed by public servants while working in that capacity are not to be quashed merely on the basis of compromise between the victim and the offender;

**15.4. Offences under Section 307 IPC and the Arms Act, etc. would fall in the category of heinous and serious offences and therefore are to be treated as crime against the society and not against the individual alone, and therefore, the criminal proceedings for the offence under Section 307 IPC and/or the Arms Act, etc. which have a serious impact on the society cannot be quashed in exercise of powers under Section 482 of the Code, on the ground that the parties have resolved their entire dispute amongst themselves. However, the High Court would not rest its decision merely because there is a mention of Section 307 IPC in the FIR or the charge is framed under this provision. It would be open to the High Court to examine as to whether incorporation of Section 307 IPC is there for the sake of it or the prosecution has collected sufficient evidence, which if proved, would lead to framing the charge under Section 307 IPC. For this purpose, it would be open to the High Court to go by the nature of injury sustained, whether such injury is inflicted on the vital/delicate parts of the body, nature of weapons used, etc. However, such an exercise by the High Court would be permissible only after the evidence is collected after investigation and the charge-sheet is filed/charge is framed and/or during the trial. Such exercise is not permissible when the matter is still under investigation. Therefore, the ultimate conclusion in paras 29.6 and 29.7 of the decision of this Court in Narinder Singh (supra) should be read harmoniously and to be read as a whole and in the circumstances stated hereinabove;**

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."

13. The Apex Court in the case of **Arun Singh and Others v. State of Uttar Pradesh Through its Secretary and Another** reported in **2020 (3) SCC 736**, held as under:-

"14. In another decision in **Narinder Singh v. State of Punjab (supra)** it has been observed that in respect of offence against the society it is the duty to punish the

**offender. Hence, even where there is a settlement between the offender and victim the same shall not prevail since it is in interests of the society that offender should be punished which acts as deterrent for others from committing similar crime.** On the other hand, there may be offences falling in the category where the correctional objective of criminal law would have to be given more weightage than the theory of deterrent punishment. In such cases, the court may be of the opinion that a settlement between the parties would lead to better relations between them and would resolve a festering private dispute and thus may exercise power under Section 482 CrPC for quashing the proceedings or the complaint or the FIR as the case may be.

14. The Apex Court in case of **Ram Gopal & Another Vs. State of Madhya Pradesh** reported in [2021 0 Supreme (SC) 529] had occasioned to discuss the issue and observed in paragraph -14 as follows:-

14. In other words, grave or serious offences or offences which involve moral turpitude or have a harmful effect on the social and moral fabric of the society or involve matters concerning public policy, cannot be construed betwixt two individuals or groups only, for such offences have the potential to impact the society at large. Effacing abominable offences through quashing process would not only send a wrong signal to the community but may also accord an undue benefit to unscrupulous habitual or professional offenders, who can secure a "settlement" through duress, threats, social boycotts, bribes or other dubious means. It is well said that "let no guilty man escape, if it can be avoided."

15. The Supreme Court in case of **Daxaben Vs. The State of Gujarat & others 2022 LiveLaw (SC) 642** observed as follows:-

"38. However, before exercising its power under Section 482 of the Cr.P.C. to quash an FIR, criminal complaint and/or criminal proceedings, the High Court, as observed above, has to be circumspect and have due regard to the nature and gravity of the offence. Heinous or serious crimes, which are not private in nature and have a serious impact on society cannot be quashed on the basis of a compromise between the offender and the complainant and/or the victim. Crimes like murder, rape, burglary, dacoity and even abetment to commit suicide are neither private nor civil in nature. Such crimes are against the society. In no circumstances can prosecution be quashed on compromise, when the offence is serious and grave and falls within the ambit of crime against society.

39. Orders quashing FIRs and/or complaints relating to grave and serious offences only on basis of an agreement with the complainant, would set a dangerous precedent, where complaints would be lodged for oblique reasons, with a view to extract money from the accused. Furthermore, financially strong offenders would go scot free, even in cases of grave and serious offences such as murder, rape, brideburning, etc. by buying off informants/complainants and settling with them. This would render otiose provisions such as Sections 306, 498A, 304-B etc. incorporated in the IPC as a deterrent, with a specific social purpose.

"40. In Criminal Jurisprudence, the position of the complainant is only that of the informant. Once an FIR and/or criminal complaint is lodged and a criminal case is started by the State, it becomes a matter between the State and the accused. The State has a duty to ensure that law and order is maintained in society. It is for the state to prosecute offenders. In case of grave and serious non-compoundable offences which impact society, the informant and/or complainant only has the right of hearing, to the extent of ensuring that justice is done by conviction and punishment of the offender. An informant has no right in law to withdraw the complaint of a non-compoundable offence of a grave, serious and/or heinous nature, which impacts society."

16. The Supreme Court in the case of **P. Dharmraj Vs. Shanmugam and others** decided on 8th September 2022 in Crl.

**Appeal Nos. 1515-1516 of 2022**, after discussing in earlier judgements observed in para-42 as follows:-

"Thus it is clear from the march of law that the Court has to go slow even while exercising jurisdiction under Section 482 Cr.PC or Article 226 of the Constitution in the matter of quashing of criminal proceedings on the basis of a settlement reached between the parties, when the offences are capable of having an impact not merely on the complainant and the accused but also on others."

17. From the decisions noticed above, the law as it stands is that although this Court can invoke its jurisdiction under Section 482 Cr.P.C. even in non-compoundable offence and can quash the proceedings on the basis of settlement arrived at between the parties even in the cases of non-compoundable offences but while exercising its jurisdiction this Court must consider the fact that whether the proceedings relates to any serious and heinous offences and whether the crime in question has impact over the society.

18. Considering the nature of offences, nature of dispute, facts and circumstances of the case, I am of the opinion that the case against the applicants, which is pending in Court of Ist Additional Sessions Judge, Baghpat is to be quashed in the light of the compromise entered between the parties and verified by the court concerned vide order dated 11.6.2024.

19. Therefore, the applications under Section 482 Cr.P.C. are allowed. The proceedings of Criminal Case pending before the Judicial Magistrate, Baghpat against the applicants as stated above is hereby quashed on the basis of compromise entered between the parties.

**Order Date :- 22.8.2024**

SFH