

**Court No. - 77**

**Case :-** APPLICATION U/S 482 No. - 19240 of 2024

**Applicant :-** Virendra Kumar Singh

**Opposite Party :-** State Of U.P. And 2 Others

**Counsel for Applicant :-** Durgesh Kumar Singh, Rishabh Narain Singh

**Counsel for Opposite Party :-** Anil Kumar Verma, G.A.

Connected with

**Case :-** APPLICATION U/S 482 No. - 18772 of 2024

**Applicant :-** Shiv Kumar And Another

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

**Counsel for Applicant :-** Anil Kumar Verma

**Counsel for Opposite Party :-** Durgesh Kumar Singh, G.A., Rishabh Narain Singh

**Hon'ble Rajeev Misra, J.**

1. Heard Mr. Rishabh Narayan Singh, the learned counsel for applicant-Virendra Kumar Singh, the learned A.G.A. for State and Mr. Anil Kumar Verma, the learned counsel representing first informant and injured-opposite parties-2 and 3.

2. I have also heard Mr. Anil Kumar Verma, the learned counsel for applicants-Shiv Kumar And Another, the learned A.G.A. for State and Mr. Rishabh Narayan Singh, the learned counsel representing first informant-opposite party-2.

3. Perused the record.

**Facts pertaining to Criminal Misc. Application No. 19240 of 2024 (Virendra Kumar Singh Vs. State of U.P. and Others)-**

4. Record shows that in respect of an incident, which is alleged to have occurred on 04.12.2011, a prompt FIR dated 04.12.2011 was lodged by first informant-opposite party-2 Shiv Kumar and was registered as Case Crime No. 263 of 2011, under Sections 307, 504, 506 IPC, Police Station-Badagaon, District-Varanasi. In the aforesaid FIR, 3 persons namely (1) Virendra Singh, (2) Prashant Singh and (3) Rahul Singh have been nominated as named

accused.

5. In the occurrence dated 04.12.2021, two persons namely Ram Kumar and Virendra Kumar Singh sustained injuries. For ready reference, their medico legal reports are reproduced herein below:-

**"Medico Legal Report of Ram Kumar**

***Examined Ram Kumar aged about 40 yrs. Male S/o Shiv Shankar R/o Kasi Rampur P/S Badagaon, Varanasi at 6.35 P.M. on 04.12.2011.***

***B/B: Raj Kumar (Brother).***

***M.I. - A black mole of front of Left side chest 3 cm below Lt. nipple.***

***Injuries: 1. C/W 1 & 1/2 x 1cm x DNP on Lt. leg (frontal surface) 15cm. above Lt. Ankle joint. blackening present around the wound KUO adv. X-ray fresh bleeding present.***

***Opinion: Injury is KUO adv. X-ray caused by Fire arm injury duration fresh. Pt. admitted & police informed.***

**Medico Legal Report of Virendra Kumar**

***Examined Sri Virendra Kumar Singh S/o Late Vashudev Singh age 58 years R/o Harihar Cold Storage, Babatpur, P/S Babatpur, District-Varanasi on 05/12/2011 at 11.51 A.M.***

***B/B: Shri Krishna Pratap Singh, age 74***

***M.1 One black mole present on.....***

***Injuries:***

- 1. C/o 4 cm x 2 cm present just Lt. side eye ball.***
- 2. C/o 5 cm x 3 cm present Left side head 6 cm above Left ear.***
- 3. C/o 9 cm x 9 cm present left shoulder joint.***
- 4. Complain of pain Left side of .....***
- 5. Complain of pain back side of .....***

***Opinion: All above injuries are due to blunt and hard object***

***duration one day back for injury no. 3, 5 KUO, Adv. X-Ray Lt. side shoulder and L-S and Injury no. 4 KUO follow of of Cardiology and all injuries are simple in nature and refer to SSP, Varanasi for further management and expert opinion "***

6. After aforementioned FIR was lodged, Investigating Officer proceeded with statutory investigation of concerned case crime number in terms of Chapter-XII Cr.P.C. During course of investigation, he examined the first informant and other witnesses under Section 161 Cr.P.C. including the injured. On the basis of above and other material collected by him, he came to the conclusion that offence complained of is prima facie found to be established against all the three named accused. He, accordingly, submitted the police report/charge sheet dated 23.12.2011, in terms of Section 173(2) Cr.P.C., whereby named accused were charge sheeted under Sections 307, 504, 506 IPC.

7. Upon submission of aforementioned police report/charge sheet, cognizance was taken upon same by the jurisdictional Magistrate in exercise of his jurisdiction under Section 190(1)(b) Cr.P.C. and simultaneously, the charge sheeted accused were summoned.

8. Since offence complained of is triable exclusively by the Court of Sessions, therefore, the concerned Magistrate committed the case to the Court of Sessions in compliance of Section 209 Cr.P.C. Resultantly, Sessions Trial No. 255 of 2012 (State Vs. Virendra Kumar Singh), under Sections 307, 504, 506 IPC, Police Station-Badagoan, District-Varanasi came to be registered in the Court of Sessions Judge, Varanasi. The Sessions Judge, Varanasi framed charges under Sections 307, 504, 506 IPC against charge sheeted accused.

9. During pendency of aforementioned criminal case, parties amicably settled their dispute outside the Court. On the basis of settlement so arrived at, a compromise was entered into by the parties. The terms of the compromise were subsequently, reduced to writing by way of a compromise deed dated 18.05.2024. Original copy of the same is on record at page 176 of the paper book.

10. On the basis of above, applicants, who are charge sheeted accused, have approached this Court seeking quashing of the entire proceedings of aforementioned Sessions Trial in view of the compromise entered into by the parties.

11. Present application came up for admission on 05.07.2024 and

this Court passed the following order:-

***"Learned counsel for the both the parties submitted that another Application u/S 482 Cr.P.C No.18772 of 2024 is pending between the parties before this Court.***

***Put up this case on 2.9.2024, as fresh along with Application u/S 482 Cr.P.C No.18772 of 2024 (Shiv Kumar and another vs. State of UP and another). "***

**Facts pertaining to Application U/s 482 Cr.P.C. No. 18772 of 2024 (Shiv Kumar and Another Vs. State of U.P. and Another)**

12. Record shows that in respect of an incident, which is alleged to have occurred on 04.12.2011, a prompt FIR dated 04.12.2011 was lodged by first informant-opposite party-2 Virendra Kumar Singh and was registered as Case Crime No. 263A of 2011, under Sections 147, 452, 336, 323, 504, 506, 427 IPC, Police Station-Badagaon, District-Varanasi. In the aforesaid FIR, 3 persons namely (1) Shiv Kumar, (2) Ram Kumar and (3) Shiv Sagar have been nominated as named accused.

14. After aforementioned FIR was lodged, Investigating Officer proceeded with statutory investigation of concerned case crime number in terms of Chapter-XII Cr.P.C. During course of investigation, he examined the first informant and other witnesses under Section 161 Cr.P.C. including the injured. On the basis of above and other material collected by him, he came to the conclusion that offence complained of is prima facie found to be established against all the three named accused. He, accordingly, submitted the police report/charge sheet dated 23.12.2011, in terms of Section 173(2) Cr.P.C., whereby named accused were charge sheeted under Sections 336, 323, 504, 506 IPC.

15. Upon submission of aforementioned police report/charge sheet, cognizance was taken upon same by the jurisdictional Magistrate in exercise of his jurisdiction under Section 190(1)(b) Cr.P.C. and simultaneously, the charge sheeted accused were summoned.

16. Since in respect of the same occurrence, cross FIRs were lodged from both the sides and the case had already been committed to the Court of Sessions in respect of Case Crime No. 263 of 2011, therefore, the concerned Magistrate committed this case also to the Court of Sessions in compliance of Section 323 Cr.P.C. Resultantly, Sessions Trial No. 510 of 2013 (State Vs. Shiv Kumar and Another), under Sections 336, 323, 504 and 506 IPC,

Police Station-Badagaon, District-Varanasi came to be registered. On date, the aforesaid Sessions Trial is pending in the Court of Special Judge, Anti Corruption Act, Varanasi.

17. During the pendency of aforementioned criminal case, parties amicably settled their dispute outside the Court. On the basis of settlement so arrived at by the parties, a compromise was entered into by the parties. The terms of the compromise were subsequently, reduced to writing by way of a compromise deed dated 18.05.2024. Photo copy of the same is on record at page 53 of the paper book.

18. On the basis of above, applicants, who are charge sheeted accused, have approached this Court seeking quashing of the entire proceedings of aforementioned Sessions Trial in view of the compromise entered into by the parties.

19. Present application came up for admission on 26.06.2024 and this Court passed the following order:-

***"1. Heard learned counsel for the applicants, learned AGA for the State and learned counsel appearing for opposite party no.2.***

***2. The present application under Section 482 CrPC has been filed by the applicants praying to quash the entire criminal proceeding of S.T. No. 510 of 2013 (State v. Shiv Kumar & Another), arising out of Case Crime No. 263-A of 2011, under Sections 336, 323, 504 and 506 IPC, Police Station-Badagaon, District- Varanasi pending before the Court of learned Special Judge, Anti Corruption Act, Varanasi on the ground of compromise dated 18.05.2024 which has been taken place between the applicants and the opposite party no.2 outside the court in presence of two witnesses and also quash all the consequential proceedings thereon.***

***3. It is submitted that after framing of charges, both the parties have entered into compromise and settled their dispute out of the Court on 18.05.2024. Copy of the original compromise application has been filed as Annexure-8 (Page 53 to 56 of affidavit). It is next submitted that in view of the amicable settlement took place between the parties on their own volition, instant criminal proceedings may be quashed.***

***4. Learned counsel for opposite party no. 2 has nodded the submissions as advanced by learned counsel for the applicants and contended that in changed circumstances, opposite party no.2 is no longer inclined to pursue the criminal proceedings against the present applicants, therefore, criminal proceedings may be quashed on the basis of compromise.***

***5. In this conspectus as above, office is directed to remit the original copy of the compromise application (Annexure-8) to the court concerned, after retaining its photostat copy at the relevant place, within a period of two weeks from today. After receiving the original compromise application,***

*learned court concerned shall verify the compromise, took place between the parties, in their presence, after taking statements on oath and submit the verification report before this Court within a period of one month from the date of appearance of the parties who are hereby directed to appear before the court concerned on 29th July, 2024 to get their compromise verified.*

*6. List this matter on 02.09.2024 along with the verification report, if any.*

*7. Till the next date of listing, further proceeding arising out of Case Crime No. 263-A of 2011 shall remain stayed."*

20. Pursuant to above order dated 26.06.2024, parties appeared before Court below for verification of the compromise so entered into by them.

21. Court below, vide order dated 25.07.2024, verified the compromise entered into by the parties. Photo copies of the statements of Ram Kumar, Shiv Kumar and Virendra Kumar Singh, photo copy of the compromise, photo copy of the order dated 25.07.2024 have been sent to this Court by Court below, vide letter dated 29.08.2024.

22. On the above premise, the learned counsel for applicants in both the applications submit that the dispute between the parties is a purely private dispute and not against state. During pendency of criminal proceedings, referred to above, parties have amicably settled their dispute outside the Court. On the basis of settlement, arrived at between the parties, compromise deed was filed before Court below, which has been verified by Court below in Sessions Trial No. 510 of 2013 (State Vs. Shiv Kumar and Another). As such, the compromise entered into by the parties has been acted upon. Mr. Rishabh Narayan Singh, the learned counsel for applicant-Virendra Kumar Singh contends that since there are cross FIRs in respect of the same occurrence and even if the compromise entered into by the parties in Sessions Trial No. 255 of 2012 (State Vs. Virendra Kumar Singh) has not been specifically verified, yet the matter can be decided on the basis of compromise entered into by the parties in connected Sessions Trial. To buttress his submission, he has referred to the judgment of the Supreme Court in **Shlok Bhardwaj Vs. Runika Bhardwaj, (2015) 2 SCC 721** and on basis thereof, he submits that though the parties have entered into compromise in both the cases but the compromise has been verified by Court below in one of the Sessions Trial yet the proceedings of other Sessions Trial can be terminated on the basis of compromise as the compromise entered into by the parties has to be treated as an effective compromise so

as to bring all disputes to an end. Furthermore, the settlement arrived at by the parties is a common settlement. The said facts assumes importance as cross FIRs have been lodged from both the sides in respect of the same occurrence. The case in hand is covered by the observation made by Apex Court in paragraph 15.4 of the report in **State of M.P. Vs. Laxmi Narain (Supra)** It is then contended by the respective learned counsel for applicants that since the parties have entered into a compromise, the chances of conviction of applicants, who are charge sheeted accused, are not only remote but also bleak. On the above conspectus, the respective learned counsel for applicants thus submit that no useful purpose shall be served in prolonging the criminal prosecution of applicants. They, therefore, contend that present applications are liable to be allowed.

23. Per contra, the learned Learned A.G.A. for State-opposite party-1 and the respective counsels for the first informant in both the applications submit that they have no objection to the prayer made by the learned counsel for applicants. They submit that once the first informant-opposite party-2 in both the applications has himself entered into a compromise with accused-applicants, which compromise has also been acted upon and verified by Court below in connected case, therefore, they cannot have any grievance, in case, present applications are allowed by this Court in terms of the compromise so entered into by the parties.

24. Be that as it may, this Court is not unmindful of the following judgements of Apex Court:

- i. B.S. Joshi and others Vs. State of Haryana and another (2003) 4 SCC 675**
- ii. Madan Mohan Abbot Vs. State of Punjab, (2008) 4 SCC 582**
- iii. Nikhil Merchant Vs. Central Bureau of Investigation[2008]9 SCC 677]**
- iv. Manoj Sharma Vs. State and others ( 2008) 16 SCC 1**
- v. Shiji @ Pappu and Others VS. Radhika and Another, (2011) 10 SCC 705**
- vi. Gian Singh Vs. State of Punjab (2012) 10 SCC 303**
- vii. K. Srinivas Rao Vs. D.A Deepa, (2013) 5 SCC 226**
- viii. Dimpey Gujral and others Vs. Union Territory through Administrator, U.T. Chandigarh and others, (2013) 11 SCC 497**

- ix. **Narindra Singh and others Vs. State of Punjab ( 2014) 6 SCC 466**
- x. **Yogendra Yadav and Ors. Vs. State of Jharkhand and another (2014) 9 SCC 653**
- xi. **Shlok Bhardwaj Vs. Runika Bhardwaj, (2015) 2 SCC 721**
- xii. **C.B.I. Vs. Maninder Singh (2016) 1 SCC 389**
- xiii. **C.B.I. Vs. Sadhu Ram Singla and Others, (2017) 5 SCC 350**
- xiv. **Parbatbhai Aahir @ Parbatbhai Bhimsinhbhai Karmur and Others Vs. State of Gujarat and another, (2017) 9 SCC 641**
- xv. **Anita Maria Dias and Ors. Vs. State of Maharashtra and Others, (2018) 3 SCC 290**
- xvi. **Social Action Forum For Manav Adhikar and Another Vs. Union of India and others, (2018) 10 SCC, 443 (Constitution Bench)**
- xvii. **State of M.P. VS. Dhruv Gurjar and Another, (2019) 5 SCC 570**
- xviii. **State of M.P. V/s Laxmi Narayan & Ors., (2019) 5 SCC 688**
- xix. **Rampal Vs. State of Haryana, AIR online 2019 SC 1716**
- xx. **Arun Singh and Others VS. State of U.P. and Another (2020) 3 SCC 736**
- xxi. **(Ramgopal and Another Vs. The State of M.P.), 2021 SCC OnLine SC 834**
- xxii. **Daxaben Vs. State of Gujarat, 2022 SCC Online 936.**
- xxiii. **State of Kerala VS. Hafsal Rahman N.R., Special Leave Petition (Criminal) Diary Nos. 24362 of 2021.**
- xxiv. **Shatrughna Atmaram Patil and Others Vs. Vinod Dodhu Chaudhary and Another, (2024) 4 SCC 458.**

wherein the Apex Court has categorically held that compromise can be made between the parties even in respect of certain cognizable and non compoundable offences. However, Apex Court in **State of M.P. Vs. Laxmi Narayan (Supra)** held that no compromise can be made in respect of offences against society as they are not private in nature. Similarly in **Ram Pal Vs. State of Haryana (Supra)** it has been held that no compromise can be made in cases relating to rape and sexual assault. Recently, the Apex Court in **Daxaben (supra)** has held that no compromise can be made in matter under Section 306 IPC. In state of **Kerala Vs.**



**Hafsal Rahman (Supra)**, Court has held that no compromise can be entertained in matters under the POCSO Acts. Reference may also be made to the decision given by this Court in **Shaifullah and others Vs. State of U.P. And another [2013 (83) ACC 278]** in which the law expounded by the Apex court in some of the aforesaid cases has been explained in detail.

Recently Apex court in **Parbatbhai Aahir @ Parbatbhai Bhimsinhbhai Karmur (Supra)** has laid down the following guidelines with regard to quashing of criminal proceedings as well compromise in criminal proceedings in paragraphs 16 to 16.10 of the report, which read as under:

*"16. The broad principles which emerge from the precedents on the subject, may be summarized 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 in so far 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 misdemeanour. The consequences of the act complained of upon the financial or economic system will weigh in the balance."*

Recently in **Ramgopal and another (supra)**, Court has again reiterated the guidelines regarding quashing of criminal proceedings in view of compromise. Following has been observed in paragraph 18-19:-

*"18. It is now a well crystalized axiom that plenary jurisdiction of this Court to impart complete justice under Article 142 cannot ipso facto be limited or restricted by ordinary statutory provisions. It is also noteworthy that even in the absence of an express provision akin to Section 482 Cr.P.C. conferring powers on the Supreme Court to abrogate and set aside criminal proceedings, the jurisdiction exercisable under Article 142 of the Constitution embraces this Court with scopious powers to quash criminal proceedings also, so as to secure complete justice. In doing so, due regard must be given to the overarching objective of sentencing in the criminal justice system, which is grounded on the sub-lime philosophy of maintenance of peace of the collective and that the rationale of placing an individual behind bars is aimed at his reformation.*

*19. We thus sum-up and hold that as opposed to Section 320 Cr.P.C. where the Court is squarely guided by the compromise between the parties in respect of offences 'compoundable' within the statutory framework, the extra-ordinary power enjoined upon a High Court under Section 482 Cr.P.C. or vested in this Court under Article 142 of the Constitution, can be invoked beyond the metes and bounds of Section 320 Cr.P.C. Nonetheless, we reiterate that such powers of wide amplitude ought to be exercise carefully in the context of quashing criminal proceedings, bearing in mind:*

*(i) Nature and effect of the offence on the conscious of the society; (ii) Seriousness of the injury, if any; (iii) Voluntary nature of compromise between accused and the victim; & (iv) Conduct of the accused persons, prior to and after the occurrence of the purported offence and/or other relevant considerations."*

25. In **State of M.P. Vs. Laxmi Narayan (Supra)**, the Apex Court held that mere mention of Section 307 IPC cannot be sole basis for not quashing the proceedings. Court has to examine whether the prosecution has collected sufficient evidence for framing of charge under Section 307 IPC. The Court is further required to examine the weapons used and nature of injury and whether injury has been inflicted on vital/delicate parts of the body, the previous antecedents of accused and whether they are absconding and how the compromise was got entered into by the parties are relevant factors, which must be considered. The above observations can be clearly delineated from the recital occurring in paragraphs 11 to 18 of the aforementioned report.

26. Having heard the counsel for the parties in both the applications, the learned A.G.A. for State-opposite party-1, upon perusal of record, in view of the facts and circumstances of the case as noted herein above and the observations made by the Apex Court as aforementioned, this Court finds that there does not exist any legal impediment in accepting the compromise entered into by the parties. There are cross FIRs in respect of the same occurrence. The injured have not sustained such injury, which can be said to be grievous or fatal. In view of the compromise entered into by the parties, the chances of conviction of accused-applicants are remote and bleak. As such, continuation of proceedings would itself cause injustice to the parties. The trial would only entail loss of judicial time in a futile pursuit particularly when torrents of litigation drown the Courts with an unimaginable flood of dockets.

27. In view of the discussion made above, the present applications succeed and are liable to be allowed.

28. They are, accordingly, **allowed**.

29. The entire proceedings of aforementioned criminal cases i.e. Sessions Trial No. 255 of 2012 (State Vs. Virendra Kumar Singh), under Sections 307, 504, 506 IPC, Police Station-Badagoan, District-Varanasi now pending in the Court of Special Judge, Anti Corruption Act, Varanasi and Sessions Trial No. 510 of 2013 (State Vs. Shiv Kumar and Another), under Sections 336, 323, 504 and 506 IPC, Police Station-Badagaon, District-Varanasi now pending in the Court of ASpecial Judge, Anti Corruption Act, Varanasi are,

hereby, quashed.

30. In the facts and circumstances of the case, the cost is made easy.

**Order Date :- 23.9.2024**

Vinay