

**HIGH COURT OF TRIPURA
AGARTALA
CRL. PETN. NO.10 OF 2023**

Smt. Sangita Sangma
Vs.
The State of Tripura and anr.

HON'BLE MR. JUSTICE T. AMARNATH GOUD

Present:

For the Petitioner(s) : Mr. A. Bhaumik, Advocate.
Mr. A.T. Paul, Advocate.
For the Respondent(s) : Mr. R. Datta, P.P.
Mr. S. Debnath, Addl. P.P.

05.07.2023

Order

This present petition has been filed under Section 482 of the Criminal Procedure Code 1973 for quashing the Criminal Case registered as TLMPS Case No.118 of 2022 which is pending before the Court of Ld. J.M. 1st Class, Khowai, Khowai Judicial District(Court No.2) vide PRC(WP) 25 of 2023 under Section 376/417/506 of IPC on the ground of settlement between the petitioner and Private Respondent No.2.

2. The brief fact of this case is that the petitioner and the private respondent No.2 herein are both adults and are serving as Staff Nurse on a Contractual basis and Medical Officer under the Health and Family Welfare Department, Govt. of Tripura. Both of them were in a love relationship and there was a consensual physical relationship between them. But private respondent No.2 denied to marry the petitioner and for such refusal, the petitioner lodged an FIR and a subsequent case commenced. But now the petitioner is no longer desirous to proceed with the above-mentioned case and therefore, both the petitioner and the private respondent No.2 have entered into a Memorandum of Settlement dated 24.04 2023 where under both the petitioner and the private respondent No.2 have

decided to settle their dispute and in furtherance of such settlement, both the petitioner and the Private respondent No.2 have agreed to get the registered Criminal Case quashed from this Court. Hence this present petition.

3. Heard Mr. A. Bhowmik, learned counsel appearing for the petitioner as well as Mr. R. Datta, learned P.P. along with Mr. S. Debnath, learned Addl. P.P. appearing for the State-respondent.

4. Mr. A. Bhowmik, learned counsel appearing for the petitioner submits that FIR lodged by the petitioner is predominantly Civil in nature as the same was lodged as a result of the refusal by respondent No.2 to marry the petitioner. Since the dispute has been settled between the parties, there is no likelihood of private respondent No.2 being convicted in the criminal case. Offence herein has been raised due to breach of promise of marriage which adds civil flavor to it. Further learned counsel submits that the petitioner has the locus to file this petition.

To support his argument, learned counsel appearing for the petitioner has referred to the following citations:-

i. Para-16 of the Hon'ble Apex Court Judgment reported in **(2017) 9 SCC 641** titled as **Parbatbhai Aahir alias Parabatbhai Bhimsinhbhai Karmur and ors. Vs. State of Gujarat and anr.**, which is reproduced herein-under:-

"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 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.

ii. **Paras-17, 18 & 19** of the Hon'ble Apex Court judgment reported in **(2011) 10 SCC 705** titled as **Shiji alias Pappu and ors. Vs. Radhika and anr.**, which is reproduced herein below:-

"17. It is manifest that simply because an offence is not compoundable under [Section 320](#) IPC is by itself no reason for the High Court to refuse exercise of its power under [Section 482](#) Cr.P.C. That power can in our opinion be exercised in cases where there is no chance of recording a conviction against the accused and the entire exercise of a trial is destined to be an exercise in futility. There is a subtle distinction between compounding of offences by the parties before the trial Court or in appeal on one hand and the exercise of power by the High Court to quash the prosecution under [Section 482](#) Cr.P.C. on the other. While a Court trying an accused or hearing an appeal against conviction, may not be competent to permit compounding of an offence based on a settlement arrived at between the parties in cases where the offences are not compoundable under [Section 320](#), the High Court may quash the prosecution even in cases where the offences with which the accused stand charged are non-

compoundable. The inherent powers of the High Court under [Section 482](#) Cr.P.C. are not for that purpose controlled by [Section 320](#) Cr.P.C.

18. Having said so, we must hasten to add that the plenitude of the power under [Section 482](#) Cr.P.C. 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 day light 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 eye witnesses, 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](#) Cr.P.C. 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.

5. On the other hand, Mr. R. Datta, learned P.P. assisted by Mr. S. Debnath, learned Addl. P.P. appearing for the respondent-state submitted that the victim has no locus to challenge the proceeding as the investigation has been completed and charge-sheet has been filed. Both the petitioner and respondent No.2 are government servants and the crime committed is detrimental to society and is heinous in nature.

To support his argument, learned P.P. referred to the following citations:-

i. **Para-13 & 14** of the Hon'ble Supreme Court Judgment reported in **AIR 2019 SC 1296** titled as **State of Madhya Pradesh Vs. Laxmi Narayan and ors.**, which is reproduced herein-below:-

"13. 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:

i) 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;

ii) 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;

iii) similarly, such power is not to be exercised for the offences under the special statutes like [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;

iv) 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/delegate 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 paragraphs 29.6 and 29.7 of the decision of this Court in the case of Narinder Singh (supra) should be read harmoniously and to be read as a whole and in the circumstances stated hereinabove;

v) 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.

14. Therefore, the gravity of the offence and the conduct of the accused is not at all considered by the High Court and solely on the basis of a settlement between the accused and the complainant, the High Court has mechanically quashed the FIR, in exercise of power under [Section 482](#) of the Code, which is not sustainable in the eyes of law....."

ii. **Para-9** of Hon'ble Apex Court Judgment reported in

2019 CRL.L.J.736 titled as **Hemudan Nandha Gadhvi Vs. State of**

Gujarat which is reproduced herein-under:-

"19. A criminal trial is but a quest for truth. The nature of inquiry and evidence required will depend on the facts of each case. The presumption of innocence will have to be balanced with the rights of the victim, and above all the societal interest for preservation of the rule of law. Neither the accused nor the victim can be permitted to subvert a criminal trial by stating falsehood and resort to contrivances, so as to make it the theatre of the absurd. Dispensation of justice in a criminal trial is a serious matter and cannot be allowed to become a mockery by simply allowing prime prosecution witnesses to turn hostile as a ground for acquittal....."

iii. Relevant operative portion of Judgment of the Hon'ble High Court of Himachal Pradesh reported in **2021 SCC Online HP 705** titled as "**S....." Vs. State of Himachal Pradesh.(locus of the petitioner R. Datta).**

6. Heard both sides and perused the evidence on record.

7. As seen from the record and evident from the evidence on record that both the petitioner and the private-respondent No.1 were consenting adults and the complaint was raised by the petitioner due to the breach of promise of marriage. As such the issue is predominantly civil in nature and this Court finds force in the submission of learned counsel for the petitioner that the impugned Criminal proceeding should be quashed and the same is accordingly ordered. Further, the judgments as referred by the learned P.P. in support of his argument do not attract to the fact of the case.

8. With the above observation and direction, this present writ petition stands allowed and thus disposed of. Stay if any stands vacated. Pending application(s), if any also stands closed.

JUDGE

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