

IN THE HIGH COURT OF MANIPUR

AT IMPHAL

WP(C) No. 699 of 2019

1. Shri Pauminthang alias PMT Neihsial, aged about 61 years, S/o (late) Shri Thangtinmang of Neihsial Veng, P.O. & P.S. Churachandpur, District Churachandpur, Manipur State – 795128.
2. Shri Ngamneilien Khawbung, Secretary of Neihsial Veng Village Authority, S/o (late) Shri T. Lawmthang of Neihsial Veng, P.O. & P.S. Churachandpur, District, Churachandpur, Manipur State – 795128.
3. Shri Paukam Khongsai, aged about 43 years, S/o Shri Dimpau of Neihsial Veng, P.O. & P.S. Churachandpur District Churachandpur, Manipur State – 795128.
4. Shri Thangjagin, aged about 60 years, S/o (late) Shri Lukhokam of Neihsial Veng, P.O. & P.S., Churachandpur, District Churachandpur, Manipur State – 795128.
5. Shri Paominlun, aged about 29 years, Shri Doukhosat Neihsial of Neihsial Veng, P.O. & P.S. Churachandpur, District Churachandpur, Manipur State – 795128.
6. Shri Lamlalvang, aged about 18 years, S/o Shri Damkhokap Neihsial of Neihsial Veng, P.O. & P.S. Churachandpur, District Churachandpur, Manipur State – 795128.
7. Shri David, aged about 25 years, S/o Shri Thangboi of Neihsial Veng, P.O. & P.S. Churachandpur, District Churachandpur, Manipur State – 795128.
8. Shri Samuel, aged about 28 years, S/o Shri Zangkholian Neihsial of Neihsial Veng, P.O. & P.S. Churachandpur, District Churachandpur, Manipur State – 795128.
9. Shri Thangbensam, aged about 24 years, S/o Shri Thiankholal Neihsial Veng, P.O. & P.S. Churachandpur, District Churachandpur, Manipur State – 795128.
10. Shri Khamlalhawl, aged about 24 years, S/o Shri Paucha of Neihsial Veng, P.O. & P.S. Churachandpur, District Churachandpur, Manipur State – 795128.

11. Shri Kam David, aged about 29 years, S/o (late) Shri Kamkholam of Neihzial Veng, P.O. & P.S. Churachandpur, District Churachandpur, Manipur State – 795128.
12. Shri Siemminlen, aged about 23 years, S/o Shri Haukhokai of Neihzial Veng, P.O. & P.S. Churachandpur, District Churachandpur, Manipur State – 795128.
13. Shri Khaimalsom, aged about 29 years, S/o Shri Haukhokai of Neihzial Veng, P.O. & P.S. Churachandpur, District Churachandpur, Manipur State – 795128.
14. Lamkhosat, aged about 34 years, S/o Shri Thiankholal of Neihzial Veng, P.O. & P.S. Churachandpur, District Churachandpur, Manipur State – 795128.
15. Shri Lamthansang, aged about 17 years, S/o Shri Khouлча of Neihzial Veng, P.O. & P.S. Churachandpur, District Churachandpur, Manipur State – 795128 and
16. Shri Satlallien, aged about 22 years, S/o Shri Haukhokai of Neihzial Veng, P.O. & P.S. Churachandpur, District Churachandpur, Manipur State – 795128.

... Petitioners

-Versus-

1. The State of Manipur represented by the Principal Secretary (Home), Government of Manipur – 795001.
2. The Superintendent of Police, Churachandpur District, Manipur- 795128.
3. The Officer-in-Charge, Churachandpur Police Station, Churachandpur District, Manipur.

... Respondents

B E F O R E

HON'BLE MR. JUSTICE AHANTHEMBIMOL SINGH

For the petitioner	::	Mr. Thangchunghnung Leivon, Advocate
For the respondents	::	Mr. Niranjana Sanasam, GA
Date of hearing	::	02-04-2024
Date of judgment & order	::	18-07-2024

JUDGMENT & ORDER

[1] Heard Mr. Thangchunghnung Leivon, learned counsel appearing for the petitioners and Mr. Niranjana Sanasam, learned GA appearing for the respondents.

The present writ petition had been filed with a prayer for closing the FIR No. 87(7)2019 CCpur P.S. u/s 506/447/153-A/427/147 IPC or to allow the withdrawal application filed by the complainant of the said FIR by returning the said FIR as a false report. The question that falls for determination in the instant case is about the ambit of the inherent powers of the High Court under Article 226 of the Constitution of India and/ or under section 482 of the Code of Criminal Procedure to quash criminal proceedings.

[2] The facts of the present case are not in dispute. The petitioner No. 1 filed a complaint dated 13-07-2019 to the Officer-in-Charge of Churachandpur Police Station. In the said complaint, it is stated that on 13-07-2019 at around 10 a.m., the petitioner No. 3 came to the house of the petitioner No. 4 and warned him that the newly constructed Manipur Presbyterian Church Synod (MPCS) building located at their village should not be inaugurated at any cost and if the same is inaugurated, they will face dire consequences. In the said complaint, it is also stated that on the same day at around 05:00 p.m., some unknown persons numbering about 30 led by petitioners No. 5 to 16 dismantled the said newly constructed Church by using axe, hammer, knife and sticks thereby disturbing the peace and tranquility of the locality, creating fear in the hearts and minds of the women

and children residing in the locality. On the basis of the said complaint, the O.C., Churachandpur Police Station registered an FIR No. 87(07)2019 CCP-PS u/s 506/447/153-A/427/147 IPC against some unknown persons numbering about 30 led by petitioners No. 5 to 16.

[3] The complainant and the accused persons, who are the petitioners herein, being residents of the same village i.e., Neihsiel Veng village were summoned by the Kuki Inpi (Kuki Supreme House), Churachandpur and the petitioners and most of the leading villagers of Neihsiel Veng village organized and convened a General Body Meeting of the said village on 16-07-2019 for settling the dispute and to bring mutual and harmonious relationship, peaceful co-existence and for maintenance of peace and tranquility among the members of all the communities of the said village. In the said meeting, the petitioners have mutually settled their disputes or differences under the Kuki customary law and practices by rendering their agreement into writing as a deed of "Compromise Agreement". Accordingly, the petitioners, who are the complainant and the accused persons, out of their own free will and without any fraud, coercion or influence from anybody and in full possession of their senses have settled their disputes/ differences in terms of the following agreements:-

"1. That, the First Party/complainant agreed to withdraw his complaint in connection with FIR No. 87(07)2019 CCP-PS Dated: 13-07-2019 within three days from the date of this Agreement and shall also co-operate in the closure or cancellation of the said FIR in any court of Laws.

"2. That the accused party and Village Authority agreed to organise a compromise feast Known as "KI CHAMNA ANKUONG" and love feast known as "NGAILUT ANKUONG respectively on 18-7-2019 as per customary law in the vicinity of the village.

- “3. That both parties agreed to recognise and establish only one congregational Church Known as Neihisial Veng Local Church in future within the village jurisdiction of Neihisial Veng***
- “4. That the First Party/ Complainant and his associates also agreed to withdraw all cases, civil or criminal, pending in any court of law against the Second party and his associates relating to issues arising from Neihisial Veng.***
- “5. That, both parties agreed to co-operate rules and regulations made by the village authority and shall also take interest in promoting peace and harmony in the village.***
- “6. That, both parties agreed to comply with the previous decisions taken by the KUKI INPI Churachandpur regarding Neihisial Veng Case.”***

[4] The petitioner No. 1, who is the complainant in the said FIR, voluntarily filed an application dated 16-07-2019 to the Officer-in-Charge of Churachandpur Police Station by stating, inter alia, that he voluntarily withdraw the complaint made by him in respect of the aforesaid FIR unconditionally on humanitarian ground and also for the best interest of peace and tranquility at Neihisial Veng village, Churachandpur. Even though the Churachandpur Police Station acknowledged the receipt of the said application filed by the petitioner No. 1, neither any action has been taken up by the respondents for closure of the said FIR nor has the Police taken up any further action for investigation in connection with the said FIR and also none of the accused persons have been apprehended by the Police in connection with the said FIR.

[5] It has been submitted on behalf of the petitioners that non-acceptance of the withdrawal application submitted by the petitioner No. 1 and non- closure of the said FIR by the authorities has created/ caused a confusion or misunderstanding among the villagers, including the petitioners, and that it would be most desirable and expedient to close the

said FIR in order to secure the ends of justice or to prevent the abuse of the process of the court. It has also been submitted that there is no question at all of committing any of the acts by the accused persons as alleged in the complaint/ FIR and that if there was any misunderstanding between the petitioners, who are the complainant and accused persons, such dispute or misunderstanding had already been settled amicably among the villagers of the said village including the petitioners by executing a deed of Compromise Agreement in the best interest of peace and tranquility at the said village. Accordingly a prayer has been made for quashing the said FIR by exercising the inherent powers of this court conferred under Article 226 of the Constitution of India and/ or section 482 of the CrPC, 1972. In support of his contentions, the learned counsel cited the judgments rendered by the Hon'ble Apex Court in the cases of:-

- (i) **“B.S. Joshi & ors. Vs. State of Haryana & anr.” reported in (2003) 4 SCC 675;**
- (ii) **“Nikhil Merchant Vs. Central Bureau of Investigation & anr.” reported in (2008) 9 SCC 677;**
- (iii) **“Parbatbhai Aahir alias Parbatbhai Bhimsinhbhai Karmur & ors. Vs. State of Gujarat & anr.” reported in (2017) 9 SCC 641; and**
- (iv) **“Kapil Agarwal & ors. Vs. Sanjay Sharma & ors.” reported in (2021) 5 SCC 524.**

[6] Mr. Niranjana Sanasam, learned GA appearing for the respondents submitted that the offences committed by the accused persons attract section 147/153-A of the IPC, which are non-compoundable offences and that the case is still under investigation. It has also been

submitted by the learned GA that once a case is registered in a Police Station, there is no provision for allowing withdrawal of non-compoundable offence. It has further been submitted by the learned GA that as the High Court has inherent power under section 482 of the CrPC for consideration of a prayer for quashing an FIR, there is no reason to entertain the present writ petition filed under Article 226 of the Constitution of India. The learned GA, accordingly, prays for dismissing the present writ petition as being devoid of merit. In support of his contentions, the learned GA cited the judgment rendered by the Hon'ble Apex Court in the case of **“Arnab Ranjan Goswami Vs. Union of India & ors.”** reported in **(2020) 14 SCC 12** wherein it has been held at para 57 as under:-

“57. We hold that it would be inappropriate for the Court to exercise its jurisdiction under Article 32 of the Constitution for the purpose of quashing FIR No. 164 of 2020 under investigation at N.M. Joshi Marg Police Station in Mumbai. In adopting this view, we are guided by the fact that the checks and balances to ensure the protection of the petitioner's liberty are governed by the CrPC. Despite the liberty being granted to the petitioner on 24-4-2020, it is an admitted position that the petitioner did not pursue available remedies in the law, but sought instead to invoke the jurisdiction of this Court. Whether the allegations contained in the FIR do or do not make out any offence as alleged will not be decided in pursuance of the jurisdiction of this Court under Article 32, to quash the FIR. The petitioner must be relegated to the pursuit of the remedies available under the CrPC, which we hereby do. The petitioner has an equally efficacious remedy available before the High Court. We should not be construed as holding that a petition under Article 32 is not maintainable. But when the High Court has the power under Section 482, there is no reason to by-pass the procedure under the CrPC, we see no exceptional grounds or reasons to entertain this petition under Article 32. There is a clear distinction between the maintainability of a petition and whether it should be entertained. In a situation like this, and for the reasons stated hereinabove, this Court would not like to entertain the petition under Article 32 for the relief of quashing the FIR being investigated at N.M. Joshi Police Station in Mumbai which can be considered by the High Court. Therefore, we are of the opinion that the petitioner must be relegated to avail

of the remedies which are available under the CrPC before the competent court including the High Court.”

[7] I have heard the rival submissions advanced by the learned counsels appearing for the parties at length and also carefully perused the materials available on record as well as the judgments cited by the learned counsels. In the present case, the allegations made by the petitioner No. 1 in his complaint is that in the morning of 13-07-2019, the petitioner No. 3 came to the house of the petitioner No. 4 and warned him that the newly constructed Church building located at their village should not be inaugurated at any cost and if the same is inaugurated, they will face dire consequences and left after giving the warning. It has also been alleged in the said complaint that in the evening of the same day about 30 unknown persons led by the petitioners No. 5 to 16 dismantled the newly constructed Church building by using axe, hammer, knife and sticks thereby disturbing peace and tranquillity of the locality, creating fear in the hearts and minds of the women and children residing in the locality. On the basis of the said complaint, the O.C., Churachandpur Police Station registered the FIR in question. Just after three days of filing the said complaint and registering of the said FIR, the complainant and the accused persons, who are the petitioners herein and residents of the same village, along with the leading villagers of Neihsial Veng Village organized and convened a General Body Meeting of the villagers of the said village under the supervision of the Kuki Inpi (Kuki Supreme House), Churachandpur, in order to settle or sort out any dispute or misunderstanding between the villagers and to bring mutual and harmonious relationship, peaceful co-existence and for maintenance of peace and tranquillity among the villagers of the said village. In the said

meeting, the disputing parties, who are the petitioners herein, have mutually settled and sort out their disputes or differences or misunderstanding by executing a Compromise Agreement, which is enclosed as Annexure-A/2 in the present petition.

[8] After the said agreement, the complainant, who is the petitioner No. 1 herein, filed an application to the O.C., Churachandpur Police Station stating that he voluntarily withdraw the complaint made by him on 13-07-2019 unconditionally on humanitarian ground and also for the best interest of peace and tranquility in their village. It has also been stated at the bar by the learned counsel appearing for the parties that after settlement of their disputes or misunderstanding as reflected in the deed of Compromise Agreement of the villagers of the said village, including the petitioners herein, they lived peacefully and harmoniously in their village without any untoward incident. The only concern and anxiety expressed by the petitioners in the present writ petition is that non-closure of the said FIR has created/ caused a confusion or misunderstanding among the villagers, including the petitioners and that it will be most desirable and expedient to close the said FIR to secure the ends of justice or to prevent the abuse of the process of the court. In view of the peculiar facts and circumstances of the present case, this court find force and merit in the cases set out on behalf of the petitioners.

[9] In the case of “**B.S. Joshi & ors.**” (*supra*), it has been held by the Hon’ble Apex Court as under:-

“8. It is, thus, clear that Madhu Limaye case does not lay down any general proposition limiting power of quashing the criminal

proceedings or FIR or complaint as vested in Section 482 of the Code or extraordinary power under Article 226 of the Constitution of India. We are, therefore, of the view that if for the purpose of securing the ends of justice, quashing of FIR becomes necessary, Section 320 would not be a bar to the exercise of power of quashing. It is, however, a different matter depending upon the facts and circumstances of each case whether to exercise or not such a power."

- "9. The High Court has also relied upon the decision in case of Surendra Nath Mohanty case for the proposition that offence declared to be non-compoundable cannot be compounded at all even with the permission of the court. That is of course so. The offences which can be compounded are mentioned in Section 320. Those offences which are not mentioned therein cannot be permitted to be compounded. In Mohanty case the appellants were convicted by the trial court for offence under Section 307. The High Court altered the conviction of the appellants and convicted them for offence under Section 326 and imposed sentence of six months. The trial court had sentenced the appellants for a period of five years' RI. The application for compounding was, however, dismissed by the High Court. This Court holding that the offence for which the appellants had been convicted was non-compoundable and, therefore, it could not be permitted to be compounded but considering that the parties had settled their dispute outside the court, the sentence was reduced to the period already undergone. It is, however, to be borne in mind that in the present case the appellants had not sought compounding of the offences. They had approached the Court seeking quashing of FIR under the circumstances abovestated."*
- "10. In State of Karnataka v. L. Muniswamy considering the scope of inherent power of quashing under Section 482, this Court held that in the exercise of this wholesome power, the High Court is entitled to quash proceedings if it comes to the conclusion that the ends of justice so require. It was observed that 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 and that the ends of justice are higher than the ends of mere law though justice had got to be administered according to laws made by the legislature. This Court said that the compelling necessity for making these observations is that without a proper realization 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. On facts, it was also noticed that there was no reasonable likelihood of the accused being convicted of the offence. What would happen to the trial of the case where the*

wife does not support the imputations made in the FIR of the type in question. As earlier noticed, now she has filed an affidavit that the FIR was registered at her instance due to temperamental differences and implied imputations. There may be many reasons for not supporting the imputations. It may be either for the reason that she has resolved disputes with her husband and his other family members and as a result thereof she has again started living with her husband with whom she earlier had differences or she has willingly parted company and is living happily on her own or has married someone else on the earlier marriage having been dissolved by divorce on consent of parties or fails to support the prosecution on some other similar grounds. In such eventuality, there would almost be no chance of conviction. Would it then be proper to decline to exercise power of quashing on the ground that it would be permitting the parties to compound non-compoundable offences? The answer clearly has to be in the "negative". It would, however, be a different matter if the High Court on facts declines the prayer for quashing for any valid reasons including lack of bona fides"

- "11. In *Madhavrao Jiwajirao Scindia v. Sambhajirao Chandrojirao Angre* it was held that while exercising inherent power of quashing under Section 482, it is for the High Court to take into consideration any special features which appear in a particular case to consider whether it is expedient and in the interest of justice to permit a prosecution to continue. Where, in the opinion of the court, chances of an ultimate conviction are bleak and, therefore, no useful purpose is likely to be served by allowing a criminal prosecution to continue, the court may, while taking into consideration the special facts of a case, also quash the proceedings."**
- "15. In view of the above discussion, we hold that the High Court in exercise of its inherent powers can quash criminal proceedings or FIR or complaint and Section 320 of the Code does not limit or affect the powers under Section 482 of the Code."**
- "16. For the foregoing reasons, we set aside the impugned judgment and allow the appeal and quash the FIR abovementioned."**

[10] In the case of **"Nikhil Merchant"** (*supra*), it has been held by the Hon'ble Apex Court as under:-

- "8. Apart from the said decision, reliance was also placed on another decision of this Court in *B.S. Joshi v. State of Haryana* wherein while dealing with the proceedings under Sections 498-A and 406 of the Penal Code involving matrimonial disputes and offences, this Court held that even though the provisions of Section 320 of the Code of Criminal Procedure would not apply to such offences**

which are not compoundable, it did not limit or affect the powers under Section 482 CrPC and the powers conferred on the High Courts and the Supreme Court under Articles 226 and 136 of the Constitution of India. Referring to the decision of this Court in State of Haryana v. Bhajan Lal this Court observed that the categories indicated in the said case which warranted exercise of power under Section 482 CrPC were only illustrative and not exhaustive. This Court ultimately held that the High Court in exercise of its inherent powers can quash criminal proceedings or an FIR or complaint and Section 320 CrPC does not limit or affect the power of the High Court under Section 482 of the Code.

- “30. In the instant case, the disputes between the Company and the Bank have been set at rest on the basis of the compromise arrived at by them whereunder the dues of the Bank have been cleared and the Bank does not appear to have any further claim against the Company. What, however, remains is the fact that certain documents were alleged to have been created by the appellant herein in order to avail of credit facilities beyond the limit to which the Company was entitled. The dispute involved herein has overtones of a civil dispute with certain criminal facets. The question which is required to be answered in this case is whether the power which independently lies with this Court to quash the criminal proceedings pursuant to the compromise arrived at, should at all be exercised?”*
- “31. On an overall view of the facts as indicated hereinabove and keeping in mind the decision of this Court in B.S. Joshi case and the compromise arrived at between the Company and the Bank as also Clause 11 of the consent terms filed in the suit filed by the Bank, we are satisfied that this is a fit case where technicality should not be allowed to stand in the way in the quashing of the criminal proceedings, since, in our view, the continuance of the same after the compromise arrived at between the parties would be a futile exercise.”*
- “32. We, therefore, set aside the order passed by the High Court dismissing the petitioner’s Revision Application No. 49 of 2003 in Special Case No. 80 of 1998 and quash the proceedings against the appellant. The appeal is accordingly allowed.”*

[11] In the case of “Parbatbhai Aahir Alias Parbatbhai Bhimsinhbhai Karmur & ors.” (*supra*), it has been held by the Hon’ble Apex Court as under:-

“11. Section 482 is prefaced with an overriding provision. The statute saves the inherent power of the High Court, as a superior court, to make such orders as are necessary (i) to prevent an abuse of the process of any court; or (ii) otherwise to secure the ends of justice. In Gian Singh a Bench of three learned Judges of this Court adverted to the body of precedent on the subject and laid down guiding principles which the High Court should consider in determining as to whether to quash an FIR or complaint in the exercise of the inherent jurisdiction. The considerations which must weigh with the High Court are: (SCC pp. 342-43, para 61)

“61. ... the power of the High Court in quashing a criminal proceeding or FIR or complaint in exercise of its inherent jurisdiction is distinct and different from the power given to a criminal court for compounding the offences under Section 320 of the Code. Inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accord with the guideline engrafted in such power viz.: (i) to secure the ends of justice, or (ii) to prevent abuse of the process of any court. In what cases power to quash the criminal proceeding or complaint or FIR may be exercised where the offender and the victim have settled their dispute would depend on the facts and circumstances of each case and no category can be prescribed. However, before exercise of such power, the High Court must have due regard to the nature and gravity of the crime. Heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. cannot be fittingly quashed even though the victim or victim's family and the offender have settled the dispute. Such offences are not private in nature and have a serious impact on society. Similarly, any compromise between the victim and the offender in relation to the offences under special statutes like the Prevention of Corruption Act or the offences committed by public servants while working in that capacity, etc.; cannot provide for any basis for quashing criminal proceedings involving such offences. But the criminal cases having overwhelmingly and predominatingly civil flavour stand on a different footing for the purposes of quashing, particularly the offences arising from commercial, financial, mercantile, civil, partnership or such like transactions or the offences arising out of matrimony relating to dowry, etc. or the family disputes where the wrong is basically private or personal in nature and the parties have resolved their entire dispute. In this category of cases, the High Court may quash the criminal proceedings if in its view, because of the compromise

between the offender and the victim, the possibility of conviction is remote and bleak and continuation of the criminal case would put the accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case despite full and complete settlement and compromise with the victim. In other words, the High Court must consider whether it would be unfair or contrary to the interest of justice to continue with the criminal proceeding or continuation of the criminal proceeding would tantamount to abuse of process of law despite settlement and compromise between the victim and the wrongdoer and whether to secure the ends of justice, it is appropriate that the criminal case is put to an end and if the answer to the above question(s) is in the affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding.”

“12. In Narinder Singh, Dr Justice A.K. Sikri, speaking for a Bench of two learned Judges of this Court observed that in respect of offences against society, it is the duty of the State to punish the offender. In consequence, deterrence provides a rationale for punishing the offender. Hence, even when there is a settlement, the view of the offender and victim 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. 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 deterrence. In such a case, 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. The court observed that the timing of a settlement is of significance in determining whether the jurisdiction under Section 482 should be exercised: (SCC p. 484, para 29.7)

“29.7. ...Those cases where the settlement is arrived at immediately after the alleged commission of offence and the matter is still under investigation, the High Court may be liberal in accepting the settlement to quash the criminal proceedings/ investigation. It is because of the reason that at this stage the investigation is still on and even the charge-sheet has not been filed. Likewise, those cases where the charge is framed but the evidence is yet to start or the evidence is still at infancy stage, the High Court can show benevolence in exercising its powers favourably, but after prima facie assessment of the circumstances/material mentioned above. On the other hand, where the prosecution evidence is almost complete or after the conclusion of the

evidence the matter is at the stage of argument, normally the High Court should refrain from exercising its power under Section 482 of the Code, as in such cases the trial court would be in a position to decide the case finally on merits....”

This Court held, while dealing with an offence under Section 307 of the Penal Code that the following circumstances had weighed with it in quashing the first information report: (SCC p. 485, para 33)

“33. We have gone through the FIR as well which was recorded on the basis of statement of the complainant/victim. It gives an indication that the complainant was attacked allegedly by the accused persons because of some previous dispute between the parties, though nature of dispute, etc. is not stated in detail. However, a very pertinent statement appears on record viz. “respectable persons have been trying for a compromise upto now, which could not be finalised”. This becomes an important aspect. It appears that there have been some disputes which led to the aforesaid purported attack by the accused on the complainant. In this context when we find that the elders of the village, including Sarpanch, intervened in the matter and the parties have not only buried their hatchet but have decided to live peacefully in future, this becomes an important consideration. The evidence is yet to be led in the Court. It has not even started. In view of compromise between parties, there is a minimal chance of the witnesses coming forward in support of the prosecution case. Even though nature of injuries can still be established by producing the doctor as witness who conducted medical examination, it may become difficult to prove as to who caused these injuries. The chances of conviction, therefore, appear to be remote. It would, therefore, be unnecessary to drag these proceedings. ...”

“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 misdemeanour. The consequences of the act complained of upon the financial or economic system will weigh in the balance.”

[12] In the case of **“Kapil Agarwal & ors.”** (*supra*), it has been held by the Hon’ble Apex Court as under:-

“18. However, at the same time, if it is found that the subsequent FIR is an abuse of process of law and/or the same has been lodged only to harass the accused, the same can be quashed in exercise of powers under Article 226 of the Constitution or in exercise of powers under Section 482 CrPC. In that case, the complaint case will proceed further in accordance with the provisions of the CrPC.”

“18.1. As observed and held by this Court in a catena of decisions, inherent jurisdiction under Section 482 CrPC and/or under Article 226 of the Constitution is designed to achieve salutary purpose that criminal proceedings ought not to be permitted to degenerate into weapon of harassment. When the Court is satisfied that criminal proceedings amount to an abuse of process of law or that it amounts to bringing pressure upon the accused, in exercise of inherent powers, such proceedings can be quashed.”

“18.2. As held by this Court in Parbatbhai Aahir v. State of Gujarat, Section 482 CrPC is prefaced with an overriding provision. The statute saves the inherent power of the High Court, as a superior court, to make such orders as are necessary (i) to prevent an abuse of the process of any court; or (ii) otherwise to secure the ends of justice. Same are the powers with the High Court, when it exercises the powers under Article 226 of the Constitution.”

[13] In the present case, there is nothing on record to show that after registration of the said FIR any action has been taken up by the Police for investigation and prosecution of the accused persons named in the FIR and moreover, none of the accused persons have been arrested by the Police in connection with the said FIR. On the other hand, as the dispute or misunderstanding had been settled or resolved amicably between the complainant and the accused persons in the presence of the respectable and responsible villagers of the said village by executing a deed of Compromise Agreement, this court is of the considered view that the possibility of conviction of the accused persons is remote and blink and continuation of the criminal case could put the accused persons to great oppression and prejudice and extreme injustice would be caused to them by not quashing the criminal case despite full and complete settlement and compromise with the complainant.

[14] Taking into consideration the facts and circumstances of the present case and keeping in view the well settled principle of law laid down by the Hon'ble Apex Court that to secure the ends of justice or to prevent an abuse of the process of the court, the High Court can quash and set aside the FIR in exercise of its inherent power provided under Article 226 of the Constitution and/ or Section 482 of the Cr.PC, this court found no force or merit in the submission advanced by the learned GA. This court is also of the considered view that the judgments relied on by the learned GA is not applicable in the facts and circumstances of the present case for the simple reason that the facts and circumstances of the said case and the facts and circumstances of the present case are totally different.

[19]

[15] In the result, the present writ petition is allowed by quashing and setting aside the impugned FIR being FIR No. 87(07)2019 CCP-PS u/s 506/447/153-A/427/147 IPC in order to secure the ends of justice and to prevent the abuse of the process of the court. The writ petition is disposed of accordingly. Parties are to bear their own costs.

JUDGE

FR / NFR

Devananda