

Court No. - 27**Case :-** APPLICATION U/S 482 No. - 780 of 2024**Applicant :-** Bahori Lal**Opposite Party :-** State Of U.P. Thru. Secy. Home U.P. Lko. And Another**Counsel for Applicant :-** Rizwanul Haque Ansari, Santi**Counsel for Opposite Party :-** G.A.**Hon'ble Subhash Vidyarthi, J.**

1. Heard Sri Nishant Srivastava, Advocate holding brief of Sri Rizwanul Haque Ansari, the learned counsel for the applicant and Sri Rishikesh Verma, the learned A.G.A appearing on behalf of the State.

2. By means of the instant application filed under Section 482 Cr.P.C., the applicant has sought quashing of the summoning order dated 18.08.2022 and the proceedings of Compliant case No. 100/2018, under Section 376, 506 I.P.C (Sushila Devi Vs. Bahorilal) which is pending in the Court of Additional Chief Judicial Magistrate-I, District Kheri, on the ground that the parties have entered into a settlement claiming for closer of the criminal proceedings instituted by the opposite party no.2 against him.

3. The opposite party no.2 had filed an application under section 156 (3) Cr.P.C on 23.02.2016 alleging that when she had gone to attend call of nature at about 6:00 am on 09.02.2016 towards in a grave situated towards a north of a village, the applicant assaulted her with a butt of a pistol and raped her after threatening her. When she got herself freed and raised a hue and cry, Raja Ram and Lalla etc. reached on the spot and thereafter the applicant ran away. On the aforesaid application, an F.I.R. No. 160 of 2022 was registered on 8.03.2022.

4. During investigation, the investigating officer has recorded statements of several independent persons, all of whom have stated that the allegations levelled in the F.I.R are false and no such incident had taken place. The complainant's husband stated that he does not

remember the date of the incident but it took place around the festival of Khichdi (which normally falls around 15th January). He stated that the complainant had told her about some altercation only.

5. Lalla Ram, regarding whom the informant had stated in the F.I.R that he had reached on the spot, stated that when he had reached the spot, the complainant was alone there. She has suffered some injury but he does not know as to how that injury was caused. He did not state anything further and he merely stated that he would not give any false evidence against any person. The complainant stated in her statement that she has not raised any hue and cry at the spot of occurrence and she declined to get herself examined medically as a long time has elapsed since the incident.

6. After investigation, the investigating officer submitted a Final Report on 03.07.2016. The opposite party no.2 filed a protest on 30.03.2018, which was allowed and the protest application was registered as a complaint.

7. In her statement recorded under section 200 Cr.P.C, the complainant stated that the applicant had caught hold of her and had shut her mouth but she did not state that the applicant had assaulted her with a butt of a pistol, which had been alleged by her earlier. She stated that she did not remember as to who had reached on the spot but her husband had told afterwards that he and his younger brother Lalla Ram had brought her home and the applicant had escaped before anybody could reach there. This statement of the complainant was at material variance with her earlier version.

8. In his statement recorded under section 202 Cr.P.C the complainant's husband, Rajaram supported the complainant's allegations, although before the investigating officer, he had stated that he was present at the home at the time of the incident and he did not even remember the date of the incident.

9. Subsequently, on 20.03.2023 the opposite party no.2 has entered into a compromise with the applicant wherein she stated that she had levelled the allegations against the applicant because of ill advice of some other persons. The parties live in the same village and they have reconciled their differences and no dispute remains between them. She categorically stated that she wants closure of the proceedings initiated by her. The compromise has been signed in presence of some witnesses and it has been attested by a notary public.

10. The applicant had filed an application under section 482 Cr.P.C. No. 12768 of 2023, which was disposed of by means of an order dated 20.12.2023 directing the trial court to verify the compromise. The compromise has been verified by means of an order dated 06.01.2024 passed by the learned Additional Chief Judicial Magistrate, Court No. 1, Lakhimpur Kheri, a certified copy whereof has been annexed with the application.

11. Ms. Preeti Srivastava, the learned counsel for the opposite party no. 2 has also supported the factum of compromise and has given her consent for proceedings being quashed on the basis of the compromise.

12. The learned A.G.A. has opposed the application and he has submitted that the present case involves allegation of commission of rape which is a heinous offence and in view of the law laid down by Hon'ble the Apex Court in the case of ***Daxaben Vs. The State of Gujarat and others: 2022 SCC OnLine SC 936*** the proceedings of the criminal case cannot be quashed on the basis of a compromise between the parties.

13. In ***Daxaben (supra)*** an F.I.R. was lodged under Section 306 I.P.C. by the cousin of the deceased. The complainant and the accused entered into a settlement and the High Court of Gujarat at Ahamdabad quashed the proceedings upon an application filed under Section 482

Cr.P.C. on this ground alone. The widow of the deceased filed an application for recall of the order which too was dismissed by the High Court after recording that the original first informant had pocketed a hefty amount from the accused and he had gone totally out of picture post allowing of the quashing petition, therefore, the application for recall of order was not maintainable.

14. In appeal the Hon'ble Supreme Court has held that the High Court had erred in declining the prayer of the widow of the deceased for recalling an order passed without hearing her only because the original informant/complainant who was a cousin and the employee of the deceased had been heard. The Hon'ble Supreme Court further held that

*"37. Offence under Section 306 of the IPC of abetment to commit suicide is a grave, non-compoundable offence. Of course, **the inherent power of the High Court under Section 482 of the Cr.P.C. is wide and can even be exercised to quash criminal proceedings relating to non-compoundable offences, to secure the ends of justice or to prevent abuse of the process of Court. Where the victim and offender have compromised disputes essentially civil and personal in nature, the High Court can exercise its power under Section 482 of the CrPC to quash the criminal proceedings. In what cases power to quash an FIR or a criminal complaint or criminal proceedings upon compromise can be exercised, would depend on the facts and circumstances of the case.***

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.

50. In our considered opinion, the Criminal Proceeding cannot be nipped in the bud by exercise of jurisdiction under Section 482 of the Cr. P.C. only because there is a settlement, **in this case a monetary settlement, between the accused and the complainant and other relatives of the deceased to the exclusion of the hapless widow of the deceased.** As held by the three-Judge Bench of this Court in *Laxmi Narayan (supra)*, Section 307 of the IPC falls in the category of heinous and serious offences and are to be treated as crime against society and not against the individual alone. On a parity of reasoning, offence under section 306 of the IPC would fall in the same category. **An FIR under Section 306 of the IPC cannot even be quashed on the basis of any financial settlement with the informant, surviving spouse, parents, children, guardians, care-givers or anyone else."**

(Emphasis supplied)

15. The observations in ***Daxaben (supra)*** were made in the factual background of the case that husband of the appellant had committed suicide. The deceased's cousin, who was also his employee, had filed the F.I.R. and he had taken hefty sum from the accused persons to enter into a settlement and the proceedings were quashed on the basis of such settlement without hearing the widow of the deceased. There is no evidence in support of the allegation in the present case. During evidence the Investigating Officer had found the allegations to be false and there is no evidence in support of the allegations, except for the statement of the victim herself and the victim herself has resiled from the allegations and there is no allegation of any monetary transaction between the parties. Therefore, the observations made in ***Daxaben (Supra)*** will not apply to the present case.

16. The scope of jurisdiction of the High Court under Section 482 Cr.P.C. was explained by a Seven Judge Bench of the Hon'ble Supreme Court in ***P. Ramachandra Rao v. State of Karnataka***, (2002) 4 SCC 578, in the following words: -

"21....In appropriate cases, inherent power of the High Court, under Section 482 can be invoked to make such orders, as may be necessary, to give effect to any order

*under the Code of Criminal Procedure or to prevent abuse of the process of any court, or otherwise, to secure the ends of justice. **The power is wide and, if judiciously and consciously exercised, can take care of almost all the situations where interference by the High Court becomes necessary on account of delay in proceedings or for any other reason amounting to oppression or harassment in any trial, inquiry or proceedings.** In appropriate cases, the High Courts have exercised their jurisdiction under Section 482 CrPC for quashing of first information report and investigation, and terminating criminal proceedings if the case of abuse of process of law was clearly made out...".*

17. In **Narinder Singh v. State of Punjab**, (2014) 6 SCC 466, the Hon'ble Supreme Court had summed up and laid down the following principles for guidance of the High Courts in giving adequate treatment to the settlement between the parties and exercising its power under Section 482 of the Code while accepting the settlement and quashing the proceedings or refusing to accept the settlement with direction to continue with the criminal proceedings: -

"29.1. Power conferred under Section 482 of the Code is to be distinguished from the power which lies in the Court to compound the offences under Section 320 of the Code. No doubt, under Section 482 of the Code, the High Court has inherent power to quash the criminal proceedings even in those cases which are not compoundable, where the parties have settled the matter between themselves. However, this power is to be exercised sparingly and with caution.

29.2. When the parties have reached the settlement and on that basis petition for quashing the criminal proceedings is filed, the guiding factor in such cases would be to secure:

(i) ends of justice, or

(ii) to prevent abuse of the process of any court.

While exercising the power the High Court is to form an opinion on either of the aforesaid two objectives.

29.3. Such a power is not to be exercised in those prosecutions which involve 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. Similarly, for the offences alleged to have been committed under special statute 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.

29.4. On the other hand, those criminal cases having overwhelmingly and predominantly civil character, particularly those arising out of commercial transactions or arising out of matrimonial relationship or family disputes should be quashed when the parties have resolved their entire disputes among themselves.

29.5. While exercising its powers, the High Court is to examine as to whether the possibility of conviction is remote and bleak and continuation of criminal cases would put the accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal cases.

29.6. Offences under Section 307 IPC would fall in the category of heinous and serious offences and therefore are to be generally treated as crime against the society and not against the individual alone. 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 proving 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. Medical report in respect of injuries suffered by the victim can generally be the guiding factor. On the basis of this prima facie analysis, the High Court can examine as to whether there is a strong possibility of conviction or the chances of conviction are remote and bleak. In the former case it can refuse to accept the settlement and quash the criminal proceedings whereas in the latter case it would be permissible for the High Court to accept the plea compounding the offence based on complete settlement between the parties. At this stage, **the Court can also be swayed by the fact that the settlement between the parties is going to result in harmony between them which may improve their future relationship.**

29.7. While deciding whether to exercise its power under Section 482 of the Code or not, timings of settlement play a crucial role. 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 and to come to a conclusion as to whether the offence under Section 307 IPC is committed or not. Similarly, in those cases where the conviction is already recorded by the trial court and the matter is at the appellate stage before the High Court, mere compromise between the parties would not be a ground to accept the same resulting in acquittal of the offender who has already been convicted by the trial court. Here charge is proved under Section 307 IPC and conviction is already recorded of a heinous crime and, therefore, there is no question of sparing a convict found guilty of such a crime."

18. Although in **Narinder Singh** the Hon'ble Supreme Court was dealing with the question of permissibility of quashing proceedings involving commission of offence under Section 307 I.P.C., it held that offences under Section 307 IPC would fall in the category of heinous and serious offences and are to be generally treated as crime against the society and not against the individual alone. The Hon'ble Supreme Court held that generally the power to quash proceedings on the basis of a compromise is not to be exercised in those prosecutions which involve heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc., but yet, this prohibition is not absolute and in certain circumstances mentioned in the portions of the judgment quoted above, the Courts could quash the proceedings even in cases involving heinous and serious offences on the basis of a compromise in the interest of justice. Thus, **Narinder Singh** (Supra) does not lay down that there is an absolute bar against quashing of proceedings on the basis of compromise where the offence is heinous and serious.

19. In **Parbatbhai Aahir v. State of Gujarat**, (2017) 9 SCC 641, the precedents on the subject were considered and the broad principles which emerge from the precedents, were 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."

20. In **P. Dharamaraj v. Shanmugam**, 2022 SCC OnLine SC 1186, the Hon'ble Supreme Court again considered the precedents, including **Parbatbhai Aahir** (Supra) and explained the true purport of the precedents in the following words: -

"44. 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.**"

21. In **State of M.P. v. Laxmi Narayan**, (2019) 5 SCC 688, the Hon'ble Supreme Court again considered the law on the point and the other decisions of this Court on the point and 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 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."

22. Thus it is clear that **Laxmi Narain** (Supra) also does not lay down that although the proceedings involving heinous and serious offences should not ordinarily quashed on the basis of a compromise between the parties, this bar is not absolute. High Court would not rest its decision merely because there is a mention of a Section of a heinous and serious offence 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 the offence is there for the sake of it or the prosecution has collected sufficient evidence. For this purpose, it would be open to the High Court to go by the nature of allegations and evidence collected during investigation and the charge-sheet is filed/charge is framed and/or during the trial.

23. In **Ramgopal v. State of M.P.**, (2022) 14 SCC 531, the appellants had abused and assaulted the complainant on account of certain monetary disputes. Appellant no. 1 had struck the complainant with a pharsa, which resultantly cut off the little finger of his left hand. Appellant 2 also struck lathi-blows on the body of the complainant. The appellants were thereafter committed for trial under Sections 294, 323 and 326 read with Section 34 IPC and Section 3 of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989. The Magistrate had convicted the appellants under Sections 294, 323 and 326 read with Section 34 IPC. During pendency of the appeal filed against conviction, the parties had reconciled their disputes and sought quashing of proceedings under Section 482 Cr.P.C. on this ground. The High Court dismissed the application. While allowing the appeal, the Hon'ble Supreme Court held that: -

"12. The High Court, therefore, having regard to the nature

of the offence and the fact that parties have amicably settled their dispute and the victim has willingly consented to the nullification of criminal proceedings, can quash such proceedings in exercise of its inherent powers under Section 482CrPC, even if the offences are non-compoundable. **The High Court can indubitably evaluate the consequential effects of the offence beyond the body of an individual and thereafter adopt a pragmatic approach, to ensure that the felony, even if goes unpunished, does not tinker with or paralyse the very object of the administration of criminal justice system.**

13. It appears to us that criminal proceedings involving non-heinous offences or where the offences are pre-dominantly of a private nature, can be annulled irrespective of the fact that trial has already been concluded or appeal stands dismissed against conviction. Handing out punishment is not the sole form of delivering justice. Societal method of applying laws evenly is always subject to lawful exceptions. It goes without saying, that **the cases where compromise is struck post-conviction, the High Court ought to exercise such discretion with rectitude, keeping in view the circumstances surrounding the incident, the fashion in which the compromise has been arrived at, and with due regard to the nature and seriousness of the offence, besides the conduct of the accused, before and after the incidence. The touchstone for exercising the extraordinary power under Section 482 CrPC would be to secure the ends of justice. There can be no hard-and-fast line constricting the power of the High Court to do substantial justice. A restrictive construction of inherent powers under Section 482CrPC may lead to rigid or specious justice, which in the given facts and circumstances of a case, may rather lead to grave injustice.** On the other hand, in cases where heinous offences have been proved against perpetrators, no such benefit ought to be extended, as cautiously observed by this Court in *Narinder Singh v. State of Punjab* (2014) 6 SCC 466 and *State of M.P. v. Laxmi Narayan*, (2019) 5 SCC 688.

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'.

** * **

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

19.1. Nature and effect of the offence on the conscience of the society;

19.2. Seriousness of the injury, if any;

19.3 Voluntary nature of compromise between the accused and the victim; and

19.4 Conduct of the accused persons, prior to and after the occurrence of the purported offence and/or other relevant considerations."

(Emphasis supplied)

24. Thus the Supreme Court had reversed the order of the High Court rejecting the prayer for quashing of the proceedings and had quashed the criminal proceedings on the basis of a compromise between the parties even after conviction of the appellant for offence under Section 326 I.P.C., which is punishable with imprisonment which may extend up to life.

25. In **Ramawatar v. State of M.P.**, (2022) 13 SCC 635, the FIR lodged under Section 3(1)(x) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities Act), 1989 read with Section 34 IPC alleged that the appellant threw a brick on the complainant and also made filthy and slur remarks on her caste. There was a civil dispute between the parties. The appellant was convicted under Section 3(1)(x) of the SC/ST Act. The appeal filed against his conviction was dismissed by the High Court of Madhya Pradesh, Jabalpur Bench. During pendency of further appeal before the Hon'ble

Supreme Court, the complainant filed an application that the parties had settled their disputes through a compromise. The Hon'ble Supreme Court held that: -

"17... where it appears to the Court that the offence in question, although covered under the SC/ST Act, is primarily private or civil in nature, or where the alleged offence has not been committed on account of the caste of the victim, or where the continuation of the legal proceedings would be an abuse of the process of law, the Court can exercise its powers to quash the proceedings. On similar lines, when considering a prayer for quashing on the basis of a compromise/settlement, if the Court is satisfied that the underlying objective of the Act would not be contravened or diminished even if the felony in question goes unpunished, the mere fact that the offence is covered under a 'special statute' would not refrain this Court or the High Court, from exercising their respective powers under Article 142 of the Constitution or Section 482CrPC."

(Emphasis supplied)

26. Kapil Gupta v. State (NCT of Delhi), 2022 SCC OnLine SC 1030, is a judgment passed by the Hon'ble Supreme Court in an appeal filed against a judgment and order passed by an Hon'ble Single Judge of the High Court of Delhi, dismissing the application filed under Section 482 Cr.P.C. for quashing the proceedings under Section 376 of the Penal Code, 1860 ('IPC') on the ground that the parties had entered into a settlement. While allowing the appeal, the Hon'ble Supreme Court held that: -

"13. It can thus be seen that this Court has clearly held that though the Court should be slow in quashing the proceedings wherein heinous and serious offences are involved, the High Court is not foreclosed from examining as to whether there exists material for incorporation of such an offence or as to whether there is sufficient evidence which if proved would lead to proving the charge for the offence charged with. The Court has also to take into consideration as to whether the settlement between the parties is going to result into harmony between them which may improve their mutual relationship.

14. The Court has further held that it is also relevant to

consider as to what is stage of the proceedings. It has been observed that if an application is made at a belated stage wherein the evidence has been led and the matter is at the stage of arguments or judgment, the Court should be slow to exercise the power to quash the proceedings. However, if such an application is made at an initial stage before commencement of trial, the said factor will weigh with the court in exercising its power."

27. The legal principles which can be culled out from a collective reading of the foresaid precedents, are that the inherent powers of the High Courts recognized by Section 482 Cr.P.C. are wide and can take care of almost all the situations where interference by the High Court becomes necessary for any other reason amounting to oppression or harassment in any trial, inquiry or proceedings, but the power has to be exercised judiciously and consciously. The High Courts can exercise their jurisdiction under Section 482 CrPC for quashing of first information report and investigation, and terminating criminal proceedings if the case of abuse of process of law is clearly made out. Such powers ought to be exercised carefully in the context of quashing criminal proceedings, bearing in mind the nature and effect of the offence on the conscience of the society; the seriousness of the injury, if any, the voluntary nature of compromise between the accused and the victim, the conduct of the accused persons and the other relevant considerations. Though the Courts should be slow in quashing the proceedings wherein heinous and serious offences are involved, the High Court is not foreclosed from examining as to whether there is sufficient evidence which may lead to proving the charges. The High Court can quash the proceedings even in cases where the parties have entered into a settlement after conviction for a heinous offence carrying a maximum punishment for life. The touchstone for exercising the extraordinary power under Section 482 Cr.P.C. would be to secure the ends of justice. There can be no hard and fast rule restricting the powers of the High Court to do substantial justice, as a restrictive construction of inherent powers under Section

482 Cr.P.C. may lead to grave injustice.

28. In **K. Dhandapani v. State**, 2022 SCC OnLine SC 1056, an FIR under Sections 5(j)(ii) read with Section 6, 5(I) read with Section 6 and 5(n) read with Section 6 of Protection of Child from Sexual Offences (POCSO) Act, 2012 was registered alleging that the appellant who is the maternal uncle of the prosecutrix, had physical relations with the prosecutrix on the promise of marrying her, which amounted to committing rape. He was convicted and sentenced by the Sessions Judge to undergo rigorous imprisonment for a period of 10 years. The High Court had upheld the conviction and sentence. In appeal before the Hon'ble Supreme Court, it was submitted that the allegation against the appellant was that he had physical relations with the prosecutrix on the promise of marrying her, whereas he had in fact married the prosecutrix and they had two children and they were being taken care of by the appellant and she was leading a happy married life. The prosecutrix was aged 14 years on the date of the offence and gave birth to the first child when she was 15 years and second child was born when she was 17 years. After taking into consideration these facts, the Hon'ble High Court set aside the conviction and sentence of the appellant in view of the subsequent events by observing that "***This Court cannot shut its eyes to the ground reality and disturb the happy family life of the appellant and the prosecutrix.***" However, the Hon'ble Supreme Court had also expressed that the order shall not be treated as a precedent.

29. When we examine the facts of the present case in light of the aforesaid law, what we find is that the incident is alleged to have taken place on 09.02.2016. The application under Section 156(3) Cr.P.C was moved on 23.02.2016 and the F.I.R was registered on 08.03.2016. No witness examined during investigation supported the allegation and all of them stated that allegations levelled by the opposite party no.2 are false.

30. After investigation, a final report was submitted on 30.07.2016.

The protest application was filed on 30.03.2018 after a long time since filing of the final report. There are material contradictions between the statements recorded under Sections 200 and 202 Cr.P.C and the statements recorded during investigation. There is no medico legal examination report of the complainant in support of the allegations.

31. The opposite party no.2 has signed the compromise in presence of witnesses and there is no mention of any monetary transaction between the parties. Therefore, there appears to be absolutely no possibility of the applicant's conviction even after a full fledged trial in the present case and the continuance of criminal proceedings against the applicant in such peculiar circumstances will only result in persecution of the applicant as well the opposite party no.2

32. Keeping in view the law laid by the Hon'ble Supreme Court which has been referred to above, I am of the view that the present case falls in the category of exceptional cases, which warrants interference of this court in exercise of power under Section 482 Cr.P.C by quashing the criminal proceedings on the ground of compromise between the parties.

33. Accordingly the applicant is ***allowed*** and the summoning order dated 18.08.2022 and the proceedings of Compliant case No. 100/2018, under Section 376, 506 I.P.C (Sushila Devi Vs. Bahorilal) which is pending in the Court of Additional Chief Judicial Magistrate-I, District Kheri, are hereby quashed.

34. In case the opposite party no.2 has received any benefit of any short on the basis of her allegedly being a victim of commission of rape, the same shall be recovered from her as she has resiled from her allegations.

(Subhash Vidyarthi,J.)

Order Date :- 7.2.2024/Preeti.

