

HIGH COURT OF JUDICATURE AT ALLAHABAD
CRIMINAL APPEAL No. - 2936 of 1987

Pramod Kumar & Others	...Appellants
Vs.	
State of U.P.	...Respondent/Opposite party

Counsel for Appellant(s)	G.N. Chandra, M.C. Singh and V.K. Jaiswal
Counsel for Respondent/ Opposite Party	A.G.A.

A.F.R.

Court No. - 91

HON'BLE MADAN PAL SINGH, J.

1. Heard Mr. M.C. Singh, learned counsel for the appellant and Mr. Raj Bahadur Verma, learned A.G.A. for the State.
2. The instant criminal appeal is directed against the judgment and order dated 8th December, 1987 passed by the Special Judge (E.C. Act) in Sessions Trial No. 376 of 1984 (State Vs. Pramod Kumar & 2 Others) under Sections 307 and 307/34 I.P.C., Police Station-Zarifnagar, District-Budaun, whereby the accused-appellant nos. 1 and 3 have been convicted for the offence punishable under Section 307 I.P.C. and accused-appellant no.2 Ram Patti has been convicted for the offence punishable under Section 307/34 I.P.C. and they had been sentenced as follows:

“1. Accused-appellant no.1 was sentenced to undergo rigorous imprisonment for a term of 5 years and fine of Rs. 5,000/- and in default thereof, he had to further undergo 1 year rigorous imprisonment;

2. Accused-appellant no.3 Smt. Vidyawati was sentenced to undergo 3 years rigorous imprisonment and a fine of Rs. 2,000/- and in default thereof, she had to further undergo six month rigorous imprisonment;

3. Accused-appellant no.2 Ram Patti was sentenced to 2 years rigorous imprisonment and fine of Rs. 1,000/- and in default thereof, he had to further undergo 3 months rigorous imprisonment.”

3. Brief facts, giving rise to the questions involved in this case, are that the parents of the complainant Kiran and the accused persons, namely Pramod Kumar, Ram Patti and Smt. Vidyawati are the resident of village Auntar, Police Station Zarifnagar District Budaun. Accused-appellant no.1 Pramod Kumar is son of accused-appellant nos. 2 and 3, namely, Ram Patti and Smt. Vidyawati. In the complaint, it was alleged that the marriage of complainant Kiran was solemnized with accused-appellant no.1 before a year of the said complaint. In the marriage, father of the complainant gave sufficient dowry, according to his means and status. The accused-appellant being greedy did not satisfy with the dowry so given by her parents. All of them started teasing the young bride for bringing inadequate dowry and she was subjected to day today teasing and ill-treatment from her husband and in-laws. She was also subjected to beating by the accused-appellant time and again for additional demand of dowry. On the fateful night of 5th June, 1983, the accused-appellant no.1 Pramod Kumar, as usual started beating the complainant Smt. Kiran. His parents also joined him after some time. All of them caught hold of and placed her hands beneath legs of cot and was given merciless beating by fists and legs. They also shouted while beating the complainant Smt. Kiran for bringing a motor-cycle and Rs. 5000/- from her parents, otherwise she would be finished one day or other. On showing her inability to fulfil the said additional demand of dowry, the accused-appellant Pramod Kumar became so furious and exhorted his parents to teach her a lesson. On the said exhortation, accused-appellant no.3 Smt. Vidyawati brought kerosene oil and poured the same on her and then, the accused-appellant Pramod Kumar set her on fire on which the complainant Kiran started shouting for her help. Hearing the said voice, witnesses, namely, Lakhan, Mahendra Pal, Girdhari and Several persons of the village came to the house of the

accused-appellants. On reaching there, they saw the terror which was writ large on the face of the complainant Kiran. Seeing them complainant Kiran sobbed and disclosed the entire story to them in coherent sentences. The family members of the complainant also came there. Soon after she was rescued and was relieved from her greedy parents in-laws. The complainant Kiran was brought to her parents house. The matter could not be reported to police immediately due to threat and of accused-appellants. The complainant could manage to go to the District Police Chief on 7th June, 1983 and gave written report to him personally. The District Police Chief directed the Station Officer of concerning Police Station to register the case against the accused persons and get the complainant medically examined. The report was handed over at Police Station on 9th June, 1983 at 08:15 a.m. and on the basis of which chik report (exhibit ka-3) was prepared. The relevant entries was also made in General Diary. The carbon copy has been proved as Exhibit Ka-4. The complainant Kiran was medically examined at Primary Health Centre, Digawan on 9th June, 1983 at 10:30 a.m. When the police of Police Station Zarifnagar did not investigate the case properly and submitted final report in the case before the court concerned on 21st November, 1983, in the meantime, the complainant had filed private complaint in the court of Munsif Magistrate (Economic Offences). The complaint has been proved as (Ext. Ka-2). The learned Magistrate after recording the statement of complainant, Smt. Kiran under Section 200 Cr.P.C. and also after perusing other papers submitted therewith did not agree with the investigation of the police and rejected the final report vide his detailed order dated 2nd May, 1984. The accused persons were committed to the court of Sessions. The sessions trial as received to the Court of Special Judge (E.C. Act), Budaun by way of where accused persons put in appearance and stood charge as aforesaid and have been facing trial hither to.

4. The Prosecution, in support of its case, has examined Prosecution Witness No.1 i.e Complainant Smt. Kiran, Prosecution Witness No. 2 Lakhan, as witnesses of fact. Besides the above, the prosecution has

also banked upon the evidence of constable Onkar Singh (P.W.-3) and Dr. T.A. Rafat as (P.W.-4).

5. P.W.-3 constable Onkar Singh is a formal witness. He has proved the chik report, copy of G.D. and a copy of N.C.R. lodged by one Ram Pratap. This report has been proved as Exhibit Ka-4.

6. Dr. T.A. Rafat (P.W.-4) had examined the injuries of the complainant Kiran and he had found following injuries on the person of complainant Kiran:

“1. Superficial burn 2 cm. X 1.5 cm over left ring finger at the top.

2. Diffuse tramatic swelling in the centre of right hand. Moment of the hand was found normal .

3. Tramatic swelling and pain over right elbow and upper part of right arm.”

7. After medically examined the complainant Kiran, the P.W.-4 had opined that injury no.1 was simple and caused by burn and was about 4 days old. Injury nos. 2 and 3 were also simple and caused by some some blunt weapon and they were also about four days old. The injury report of the complainant Kiran had been proved as Exhibit Ka-6.

8. In the statements recorded under Section 313 Cr.P.C., the accused-appellants denied their participation in the alleged crime and attributed to their false implication in the case. The accused-appellant Pramod Kumar had stated in his statement that merely as the complainant Kiran was beautiful, he married her without taking any dowry from her parents. He further stated that only in order to grab money from him, the father of the complainant engineered the false case in collusion with the complainant Kiran. The accused-appellant no.2 Ram Patti had stated in his statement that under the influence of her father and witness Lakhan, who was in his party, had filed the present case against them. He further stated that he had not demanded any dowry in the marriage of his son i.e. accused-appellant Pramod

Kumar. The same version had been reiterated by the accused-appellant no.3 Smt. Vidyawati.

9. Initially, the accused-appellant had stated that they would adduce oral defence but thereafter vide endorsement dated 15th October, 1987, it was mentioned that no oral defence would be adduced.

10. After considering the oral as well as documentary evidence adduced during the course of the trial and after hearing the counsel for parties, vide impugned judgment and order dated 8th December, 1987 passed in Sessions Trial No. 376 of 1984 (State Vs. Pramod Kumar & 2 Others) under Sections 307, 307/34 I.P.C., Police Station-Zarifnagar, District-Budaun, the trial court found the accused-appellant nos. 1 and 3, Pramod Kumar and Smt. Vidyawati guilty for the offence punishable under Section 307 I.P.C., whereas the accused-appellant no.2 Ram Patti was found guilty for the offence punishable under Section 307 read with Section 34 I.P.C. After conviction, the trial court has accused-appellant no.1 to undergo rigorous imprisonment for a term of 5 years and fine of Rs. 5,000/- and in default thereof, he had to further undergo 1 year rigorous imprisonment; accused-appellant no.3 Smt. Vidyawati to undergo 3 years rigorous imprisonment and a fine of Rs. 2,000/- and in default thereof, she had to further undergo six month rigorous imprisonment; and the accused-appellant no.2 Ram Patti was sentenced to 2 years rigorous imprisonment and fine of Rs. 1,000/- and in default thereof, he had to further undergo 3 months rigorous imprisonment.

11. It is against this judgment and order of the trial court, the present criminal appeal has been filed.

12. When the present appeal was entertained, a Coordinate Bench of this Court vide order dated 14th December, 1987 enlarged the accused-appellants on bail. During the pendency of the appeal, since the appellant nos. 2 and 3, namely, Ram Patti and Smt. Vidyawati had died, the present appeal at their behest had already been abated vide order dated 3rd September, 2013 by a Coordinate Bench of this Court.

13. After 2013, when this appeal has come up for hearing before this Court on 11th September, 2025, Mr. M.C. Singh, learned counsel appearing for appellant no.1 has stated that since the appellant no.1 Pramod Kumar and the complainant Smt. Kiran who are husband and wife respectively after settling their disputes amicably, had entered into compromise just after filing of the instant appeal i.e in the year 1987 and they are living happily as husband and wife along with their children. In that regard the learned counsel for the appellant no.1 has also filed a joint affidavit annexing the copy of the compromise which has been brought on record.

14. In the joint affidavit, which has been brought on record, both appellant no.1 (deponent no.1 in the affidavit) and the complainant Kiran (deponent no.2 in the affidavit) have stated as under:

“1. That the deponent no. 1 is the appellant no.1 in the aforesaid appeal and doing pairvi of his case and as such they he is well acquainted with the facts deposed to below:-

2. That the deponent no.2, who is victim-injured, W/o appellant no.1, who is well acquainted with the facts deposed to below.

3. at is stated that the That the outset it appellant no.2 and 3, namely Rampatti and Smt. Vidyawati, died long back. The aforesaid appeal against appellant no.2 and 3, stands abated by this Hon'ble Court by order dated 03.09.2013.

4. That both the deponents who are husband and wife respectively, with best efforts of members of both the families living together since 1988, till date.

5. That from their wed lock there are four children, three boys, namely, Anshul aged about 30 years, Ankit aged about 28 years and Himanshu aged about 26 years, and one daughter, namely, Monika aged about 25 years.

6. That at present deponent no.2, Smt. Kiran W/o Pramod Kumar, has no grudge/complaint against Pramod Kumar appellant no.1.

7. That as both the deponents settled their disputes with the efforts of elder members of both the families and living together since 1988, after filing the aforesaid appeal in this Hon'ble Court in the year 1987.

8. That both the deponents jointly prayed that as both the deponents settled their disputes, who are husband and wife and living together and from their wed lock four children born and has no grudge/complaint against each other the aforesaid appeal be disposed of acquitting the appellant no.1.

9. That it is pertinent to mention here that first informant Sri Suratpal, who was father in law of deponent no.1-appellant no.1, and father injured-victim, Smt. Kiran, died long back about 15 years back. of

10. That this joint affidavit be treated as the part of the criminal appeal and be considered at the time of the disposal of the aforesaid appeal.”

15. Learned counsel for the accused-appellant no. 1 submits that the offence under Section 307 I.P.C. is a non-compoundable offence, as is clear from the perusal of the table referred to under Section 320 Cr.P.C. However, this Hon'ble Court having appellate jurisdiction can quash the proceeding in cases of non compoundable offences.

16. Learned counsel for the accused-appellant no.1 has further submitted that though the offence under Section 307 IPC is non-compoundable offence, but, in the present case, when the parties have entered into compromise and both are living as husband and wife under one roof alongwith their two sons and daughter, impugned judgment and order of the trial court against the accused-appellant no.1 may be quashed as the pendency of the instant appeal against him, would be an abuse of process of the law and this Court will vitiate the purpose of compromise and cordial relationship between the husband and wife along with their children.

17. Learned counsel for the accused-appellant no.1 has lastly submitted that the Bombay High Court as well as Hon'ble Punjab and Haryana High Court in the cases of **Kiran Tulsiram Ingle vs. Anupama P. Gayakwad** reported in 2006 0 Supreme (Bom) 1151 and **Vinay Kumar Vs. State of U.P. and another**; reported in 2016 0 Supreme (P & H) 243, even after conviction, Hon'ble Courts have been pleased to quash the criminal proceeding during the pendency of the appeal, exercising the power under Section 482 Cr.P.C.

18. To further bolster the aforesaid submissions, learned counsel for the applicants has placed reliance upon the following judgments of the Punjab and Haryana High Court, Bombay High Court and the Apex Court:

- i. **Vinay Kumar (Supra);**
- ii. **Kiran Tulsiram Ingle (Supra);**
- iii. **Gian Singh vs. State of Punjab** reported in (2012) 10 SCC 303; *and*
- (iv) **Ramgopal & Anr. Vs. State of Madhya Pradesh** reported in 2021 Legal Eagle (SC) 569.

In view of aforesaid submissions, learned counsel for the applicants submitted that the proceedings of the above mentioned criminal case are liable to be quashed by this Court as also the consequences thereof, i.e., conviction of the applicants is also liable to be set aside.

19. Alternatively, learned counsel for the appellant no.1 submits that since, as per the medical examination report and the testimony of the doctor who had medically examined the victim/complainant as P.W.-4, all the injuries found on the person of the victim/complainant are simple in nature and not on the vital part of her body and also the superficial burn injury found on the body of the victim/complainant is at the top of her left ring finger and such injuries are not sufficient to cause death of the victim, therefore, no case under Section 307 I.P.C. for causing such injuries upon her is made out against the appellant no.1, whereas, for such injuries, at the most offence under Section 324 I.P.C. would be made out against the appellant no.1.

20. Learned counsel for the appellant no.1, thus, submits that as Section 324 I.P.C. provides for a maximum punishment of three years and fine, therefore, considering the age of the appellant no.1 i.e. about 66 years, the period of incarceration already undergone by him and the period of the instant appeal, which is pending since 1987, he may be acquitted while setting aside the impugned judgment.

21. Mr. Raj Bahadur Verma, learned A.G.A. for the State has opposed the prayer made by the learned counsel for appellant no.1 by contending that since appellant no.1 has been convicted for the offence under Section 307 I.P.C. which is non-compoundable, this Court, in exercise of appellate powers under Section 374 read with Section 389 Cr.P.C. cannot quash the impugned judgment and order of the conviction passed against appellant no.1 on the basis of compromise. However, learned A.G.A. for the State could not dispute the fact that as per the medical evidence, the appellant no.1 at most could be convicted under Section 324 I.P.C. and not under Section 307 I.P.C. He also could not dispute the age of the appellant no.1 and the pendency of the instant appeal.

22. I have considered the facts and circumstances of the case, arguments so advanced by the learned counsel for the appellant no.1 and learned A.G.A., perused the material available on record including the impugned judgment of conviction and specifically the contents of the compromise so entered into between the parties.

23. Before proceeding any further, this Court, first, may come on the merits of the impugned judgment of conviction. During the course of argument, learned counsel for the appellant no.1 did not question the entire judgment of the trial court. He has only questioned a part of the same in which the trial court has convicted the appellants including appellant no.1 under section 307 I.P.C. instead of Section 324 I.P.C. even though the offence under Section 307 I.P.C. was neither made out nor proved against them as per the medical evidence and the testimony of P.W.-4.. As per the medical examination report of the victim/complainant and the testimony of P.W.-4 who medically examined the victim/complainant, the injuries found on the person of the victim/complainant are simple in nature and not on the vital part of her body, meaning thereby that the same could not sufficient to cause death to the victim in any manner. For causing such injuries, only Section 324

I.P.C. could be made out against the appellant no.1 and said offence under Section 324 I.P.C. could be proved against him. Therefore, this Court is of the considered opinion that the impugned judgment of conviction of appellant no.1 is liable to be altered from Section 307 I.P.C. to Section 324 I.P.C. Hence the conviction as awarded by the trial court under the impugned judgment is hereby modified to that extent only.

24. Now at this juncture, the issues which are up for consideration before this Court are whether (i) this Court first can convert non-compoundable offence into compoundable one (Section 324 I.P.C. in the facts of the present case), and (ii) quash/set aside the impugned judgment and order of conviction passed against appellant no.1 while exercising its appellate power under Section 374/389 Cr.P.C. to arrive at the ends of justice and in view of compromise so arrived at between the parties, who are none other than the husband and wife, when there is no equally efficacious course is open for the parties to get the relief prayed for herein.

25. There are authoritative judicial precedents where the Apex Court has approved the quashing of the proceedings when it found that they emanated from mutual marital discord, even though the proceedings included some offences, which were not compoundable (Section 324/307 I.P.C. in the facts of the present case). In the present case, the dispute is matrimonial in nature, i.e., between the husband and wife in which the husband, father-in-law and mother-in-law of the wife have been convicted by the court below and they filed an appeal against the order of conviction. In the appeal, they have been enlarged on bail and for happy and peaceful life of the husband and wife as also the life of their son, they have settled their disputes during the pendency of the appeal and both husband and wife arrived at a compromise. After compromise, they are living together happily along with their sons and daughter, namely, Anshul aged about 30 years, Ankit aged about 28 years, Himanshu aged about 26 years and Monika aged about 25 years respectively. This Court, therefore, deems it appropriate and expedient to quash the impugned judgment and order of conviction, as it will result

into a fruitless and vain exercise in the peaceful life of husband and wife as also their sons and daughter.

26. In various judgments, the Apex Court has held that if the parties have settled their disputes and arrived at a compromise for their safe and peaceful life, the High Court, in exercise of its inherent power i.e. under Section 482 Cr.P.C., can quash the criminal proceedings initiated under the compoundable and non-compoundable sections if the same relate to offences arising from commercial, financial, mercantile, civil, partnership or such like transactions or **offences arising out of matrimony relating to dowry etc., or family disputes, as it would be unfair or contrary** to interest of justice to continue with criminal proceeding or continuation of criminal proceeding would tantamount to abuse of process of law and to secure ends of justice.

(Emphasis added)

27. The Apex Court in the case of **B.S. Joshi & Others VS. State of Haryana & Another** reported in (2003) 4 SCC 675 has opined that while exercising power of quashing under Section 482 Cr.P.C., 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 is 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. The special features in such matrimonial matters are evident. It becomes the duty of the Court to encourage genuine settlements of matrimonial disputes. Paragraph nos. 2, 13 to 15 of the said judgment, which are relevant, read as follows:

“2.The question that falls for determination in the instant case is about the ambit of the inherent powers of the High Courts under Section 482, Code of Criminal Procedure (Code) read with Articles 226 and 227 of the Constitution of India to quash criminal proceedings. The scope and ambit of power under Section 482 has been examined by this Court in catena of earlier decisions but in the present case that is required to be considered in relation to

matrimonial disputes. The matrimonial disputes of the kind in the present case have been on considerable increase in recent times resulting in filing of complaints by the wife under Sections 498A and 406, IPC not only against the husband but his other family members also. When such matters are resolved either by wife agreeing to rejoin the matrimonial home or mutual separation of husband and wife and also mutual settlement of other pending disputes as a result whereof both sides approach the High Court and jointly pray for quashing of the criminal proceedings or the First Information Report or complaint filed by the wife under Sections 498A and 406, IPC, can the prayer be declined on the ground that since the offences are non-compoundable under Section 320 of the Code and, therefore, it is not permissible for the Court to quash the criminal proceedings or FIR or complaint.

...

13. The observations made by this Court, though in a slightly different context, in G.V. Rao v. L.H.V. Prasad & Ors. [(2000) 3 SCC 693] are very apt for determining the approach required to be kept in view in matrimonial dispute by the courts, it was said that there has been an outburst of matrimonial disputes in recent times. Marriage is a sacred ceremony, the main purpose of which is to enable the young couple to settle down in life and live peacefully. But little matrimonial skirmishes suddenly erupt which often assume serious proportions resulting in commission of heinous crimes in which elders of the family are also involved with the result that those who could have counselled and brought about rapprochement are rendered helpless on their being arrayed as accused in the criminal case. There are many other reasons which need not be mentioned here for not encouraging matrimonial litigation so that the parties may ponder over their defaults and terminate their disputes amicably by mutual agreement instead of fighting it out in a court of law where it takes years and years to conclude and in that process the parties lose their "young" days in chasing their "cases" in different courts.

14. There is no doubt that the object of introducing Chapter XX-A containing Section 498A in the Indian Penal Code was to prevent the torture to a woman by her husband or by relatives of her husband. Section 498A was added with a view to punishing a husband and his relatives who harass or torture the wife to coerce her or her relatives to satisfy unlawful demands of dowry. The hyper-technical view would be counter productive and would act against interests of women and against the object for which this provision was added. There is every likelihood that non-exercise

of inherent power to quash the proceedings to meet the ends of justice would prevent women from settling earlier. That is not the object of Chapter XXA of Indian Penal Code.

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.”

(Emphasis added)

28. The Apex Court in the case of **Nikhil Merchant Vs. Central Bureau of Investigation & Anr.** reported in (2008) 9 SCC 677, keeping in mind the decision of the Apex Court in the case of **B.S. Joshi (Supra)** has held that this is a fit case where technicality should not be allowed to stand in the way in quashing of the criminal proceedings, since, in our view, the continuance of the same after compromise arrived at between the parties would be a futile exercise. For ready reference, Paragraph nos. 29, 30, 31 which are relevant, read as follows:

“29. Despite the ingredients and the factual content of an offence of cheating punishable under Section 420 IPC, the same has been made compoundable under Sub-section (2) of Section 320 Cr.P.C. with the leave of the Court. Of course, forgery has not been included as one of the compoundable offences, but it is in such cases that the principle enunciated in B.S. Joshi's case (supra) becomes relevant.

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's case (supra) 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.”

29. The Apex Court in the case of the State of **Madhya Pradesh Vs. Laxmi Narayan & Others** reported in (2019) 5 SCC 688, has held that mere compromise between the parties would not be 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. But the Apex Court in the said judgment, taking into consideration the judgment of the Apex Court in the case of **Gian Singh (Supra)**, has opined that 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 causing extreme injustice to him by not quashing the criminal cases. The Apex Court has also held that mere mention of Section 307 cannot be sole basis of decision for not quashing of the criminal proceedings. Relevant paragraph nos. 15 to 18 read as follows:

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

15.1. That the power conferred under Section 482 of the Code to quash the criminal proceedings for the non-compoundable offences under Section 320 of the Code can be exercised having overwhelmingly and predominantly the civil character, particularly those arising out of commercial transactions or arising out of matrimonial relationship or family disputes and when the parties have resolved the entire dispute amongst themselves;

15.2. Such power is not to be exercised in those prosecutions which involved heinous and serious offences of mental depravity or offences like murder, rape, dacoity,

etc. Such offences are not private in nature and have a serious impact on society;

15.3. Similarly, such power is not to be exercised for the offences under the special statutes like 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/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;

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.

16. Insofar as the present case is concerned, the High Court has quashed the criminal proceedings for the offences under Sections 307 and 34 IPC mechanically and even when the investigation was under progress. Somehow, the accused managed to enter into a compromise with the complainant and sought quashing of the FIR on the basis of a settlement. The allegations are serious in nature. He used the fire arm also in commission of the offence. 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. The High Court has also failed to note the antecedents of the accused.

17. In view of the above and for the reasons stated, the present appeal is allowed. The impugned judgment and order dated 07.10.2013 passed by the High Court in Miscellaneous Criminal Case No. 8000 of 2013 is hereby quashed and set aside, and the FIR/investigation/criminal proceedings be proceeded against the accused, and they shall be dealt with, in accordance with law. Criminal Appeal No.350 of 2019

18. So far as Criminal Appeal arising out of SLP 10324/2018 is concerned, by the impugned judgment and order, the High Court has quashed the criminal proceedings for the offences punishable under Sections 323, 294, 308 & 34 of the IPC, solely on the ground that the accused and the complainant have settled the matter and in view of the decision of this Court in the case of Shiji(supra), there may not be any possibility of recording a conviction against the accused. Offence under Section 308 IPC is a non-compoundable offence. While committing the offence, the accused has used the fire arm. They are also absconding, and in the meantime, they have managed to enter into a compromise with the complainant. Therefore, for the reasons stated above, this appeal is also allowed, the impugned judgment and order dated 28.05.2018 passed by the High Court in Miscellaneous Criminal Case No. 19309/2018 is hereby quashed and set aside, and the FIR/investigation/criminal proceedings be proceeded against the accused, and they shall be dealt with, in accordance with law.”

30. This Court has an occasion to have a glance on the opinion and observations made by the Apex Court in paragraph nos. 54 to 60 in the famous case of **Gian Singh (Supra)**, after referring various judgments of the Apex Court on the same issue involved herein also, which read as follows:

“54. In different situations, the inherent power may be exercised in different ways to achieve its ultimate objective. Formation of opinion by the High Court before it exercises inherent power under Section 482 on either of the twin objectives, (i) to prevent abuse of the process of any court or (ii) to secure the ends of justice, is a sine qua non.

55. In the very nature of its constitution, it is the judicial obligation of the High Court to undo a wrong in course of administration of justice or to prevent continuation of unnecessary judicial process. This is founded on the legal maxim quando lex aliquid alicui concedit, conceditur et id sine qua res ipsa esse non potest. The full import of which is whenever anything is authorised, and especially if, as a matter of duty, required to be done by law, it is found impossible to do that thing unless something else not authorised in express terms be also done, may also be done, then that something else will be supplied by necessary intendment. Ex debito justitiae is inbuilt in such exercise; the whole idea is to do real, complete and substantial justice for which it exists. The power possessed by the High Court under Section 482 of the Code is of wide amplitude but requires exercise with great caution and circumspection.

56. It needs no emphasis that exercise of inherent power by the High Court would entirely depend on the facts and circumstances of each case. It is neither permissible nor proper for the court to provide a straitjacket formula regulating the exercise of inherent powers under Section 482. No precise and inflexible guidelines can also be provided.

57. Quashing of offence or criminal proceedings on the ground of settlement between an offender and victim is not the same thing as compounding of offence. They are different and not interchangeable. Strictly speaking, the power of compounding of offences given to a court under Section 320 is materially different from the quashing of criminal proceedings by the High Court in exercise of its inherent jurisdiction. In compounding of offences, power of

a criminal court is circumscribed by the provisions contained in Section 320 and the court is guided solely and squarely thereby while, on the other hand, the formation of opinion by the High Court for quashing a criminal offence or criminal proceeding or criminal complaint is guided by the material on record as to whether the ends of justice would justify such exercise of power although the ultimate consequence may be acquittal or dismissal of indictment.

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

59. *B.S. Joshi, Nikhil Merchant, Manoj Sharma and Shiji alias Pappu* do illustrate the principle that High Court may quash criminal proceedings or FIR or complaint in exercise of its inherent power under Section 482 of the Code and Section 320 does not limit or affect the powers of the High Court under Section 482. Can it be said that by quashing criminal proceedings in *B.S. Joshi, Nikhil Merchant, Manoj Sharma and Shiji alias Pappu*, this Court has compounded the non-compoundable offences indirectly? We do not think so. There does exist the distinction between compounding of an offence under Section 320 and quashing of a criminal case by the High Court in exercise of inherent power under Section 482. The two powers are distinct and different although ultimate consequence may be same viz., acquittal of the accused or dismissal of indictment.

60. We find no incongruity in the above principle of law and the decisions of this Court in *Simrikhia, Dharampal, Arun Shankar Shukla, Ishwar Singh, Rumi Dhar (Smt.) and Ashok Sadarangani*. The principle propounded in *Simrikhia* that the inherent jurisdiction of the High Court cannot be invoked to override express bar provided in law is by now well settled. In *Dharampal*¹⁵, the Court observed the same thing that the inherent powers under Section 482 of the Code cannot be utilized for exercising powers which are expressly barred by the Code. Similar statement of law is made in *Arun Shankar Shukla*. In *Ishwar Singh*, the accused was alleged to have committed an offence punishable under Section 307, IPC and with reference to Section 320 of the Code, it was held that the offence punishable under Section 307 IPC was not compoundable offence and there was express bar in Section 320 that no offence shall be compounded if it is not compoundable under the Code. In *Rumi Dhar (Smt.)* although the accused had paid the entire due amount as per the settlement with the bank in the matter of recovery before the Debts Recovery Tribunal, the accused was being proceeded with for commission of offences under Section 120-B/420/467/468/471 of the IPC along with the bank officers who were being prosecuted under Section 13(2) read with 13(1)(d) of Prevention of Corruption Act. The Court refused to quash the charge against the accused by holding that the Court would not quash a case involving a crime against the society when a *prima facie* case has been made out against the accused for framing the charge. *Ashok Sadarangani* was again a case where the accused persons were charged of having committed offences under Sections 120-B, 465, 467, 468 and 471, IPC and the allegations were that the accused secured the

credit facilities by submitting forged property documents as collaterals and utilized such facilities in a dishonest and fraudulent manner by opening letters of credit in respect of foreign supplies of goods, without actually bringing any goods but inducing the bank to negotiate the letters of credit in favour of foreign suppliers and also by misusing the cash-credit facility. The Court was alive to the reference made in one of the present matters and also the decisions in B.S. Joshi, Nikhil Merchant and Manoj Sharma and it was held that B.S. Joshi, and Nikhil Merchant dealt with different factual situation as the dispute involved had overtures of a civil dispute but the case under consideration in Ashok Sadarangani was more on the criminal intent than on a civil aspect. The decision in Ashok Sadarangani supports the view that the criminal matters involving overtures of a civil dispute stand on a different footing.”

31. This Court may record that from perusal of the judgments of the Apex Court in the cases of **B.S. Joshi, Nikhil Merchant, Manoj Sharma** reported in (2008) 16 SCC 1, which are two Judges' Division Bench and **Gian Singh (Supra)**, which is Three Judges' Full Bench, it is clear that in all the cases, the Apex Court has held that since Section 320 Cr.P.C. does not limit or affect the powers under Sections 482 Cr.P.C. or under Articles 226 and 136 of the Constitution of India, the High Court can quash the criminal proceedings/FIR/complaint. In the case of **B.S. Joshi (Supra)**, Two Judges' Bench of the Apex Court has specifically held that the object of introducing Chapter XX-A in I.P.C. was to prevent torture to a woman by her husband or by relatives of her husband. Section 498-A was added with a view to punishing a husband and his relatives who harass or torture the wife or coerce her or her relatives to satisfy unlawful demands of dowry. A hyper technical view would be counterproductive and would act against the interests of women and against the object for which this provision was added. There is likelihood that non-exercise of inherent power to quash the proceedings to meet the ends of justice would prevent women for settling earlier. This is not the objective of Chapter-XX-A of I.P.C.

32. In the case of **Gian Singh (Supra)**, the Three Judges' Full Bench of the Apex Court has specifically observed that where High Court quashes a criminal proceeding, having regard to the fact that dispute

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

33. Similarly, in the case of **Ramgopal (Supra)** relied upon by the learned counsel for the appellant no.1, the Apex Court has opined that such powers of wide amplitude can be exercised carefully in the context of quashing of criminal proceedings, bearing in mind (I) nature and effect

of the offence on the conscious of the society; (ii) seriousness of injury, if any, (iii) voluntary nature of compromise between the accused and victim and (iv) conduct of the accused persons, prior to and after the occurrence of the purported offence.

34. The relevant paragraph nos. 18 and 19 of the Judgment of the Apex Court in the case of **Ramgopal (Supra)** read as under:

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

19. We thus sum-up and hold that as opposed to Section 320 Cr.P.C. where the Court is squarely guided by the compromise between the parties in respect of offences ‘compoundable’ within the statutory framework, the extra-ordinary power enjoined upon a High Court under Section 482 Cr.P.C. or vested in this Court under Article 142 of the Constitution, can be invoked beyond the metes and bounds of Section 320 Cr.P.C. Nonetheless, we reiterate that such powers of wide amplitude ought to be exercised carefully in the context of quashing criminal proceedings, bearing in mind: (i) Nature and effect of the offence on the conscious of the society; (ii) Seriousness of the injury, if any; (iii) Voluntary nature of compromise between the accused and the victim; & (iv) Conduct of the accused persons, prior to and after the occurrence of the purported offence and/or other relevant considerations.”

35. In **Narinder Singh** reported in (2014) 6 SCC 466, the two Judges' Bench of the Apex Court, while framing guidelines for quashing the proceedings in cases where the offenses involved are non-compoundable, has quashed the **criminal proceedings of FIR** after accepting the compromise entered into between the parties. It is pertinent to mention here that in the said case, Offence under Section 307 I.P.C. was alleged against the accused for attacking the victim, who sustained injuries also, i.e. non-compoundable offence was involved.

36. Similarly, in the case of **State of Madhya Pradesh (Supra)**, offence under Section 307 was alleged against the accused for attacking the victim, who sustained gun shot injuries. Seeing the nature of such heinous crime, which has harmful effect on the public and consist in wrong doing that seriously endangers and threatens well-being of society and it is not safe to leave the crime- doer only because he and the victim have settled the dispute amicably or that the victim has been paid compensation, the Three Judges' of Apex Court has refused to quash the criminal proceedings on the basis of settlement/agreement/compromise entered into between the parties.

37. However, in the case in hand, this Court after examining the medical evidence adduced during course of trial like medical examination report of the victim/complainant and the testimony of the doctor who has been examined as P.W.-4 has already held that since no case under Section 307 I.P.C. is made out against the appellant nos. 1 to 3, whereas Section 324 I.P.C. would be made out against them in that place, as such the conviction under Section 307 I.P.C. is liable to be altered to Section 324 I.P.C. as above.

38. Apart from the above, the facts of the case of **State of Madhya Pradesh (Supra)** is not applicable in the facts of the present case having regard to the alteration of conviction from Section 307 I.P.C. to Section 324 I.P.C.

39. The law laid down by the three Judges Full Bench of the Apex Court in the case of **Gian Singh (Supra)** leaves the matter concluded and it remains res-integra no more, which has not been overruled by any court of law i.e. more number of judges of the Apex Court and as such, still holds the field.

40. The objections raised by learned AGA could not have been more convincingly answered than by the ratio of the above noted pronouncement by the Apex Court in **Gian Singh's case** as the well as

the **Ramgopal's case** as relied upon by the learned counsel for the appellant as referred to above.

41. This Court has no hesitation to record here that in the case of **Gian Singh (Supra)**, inherent power under Section 482 Cr.P.C. has been exercised whereas in the case of **Ramgopal (Supra)**, extraordinary power under Article 142 of the Constitution of India has been exercised and this Court now sitting in appellate jurisdiction under Section 374 read with Section 389 Cr.P.C. However, this Court has also kept in mind that the aim and object of law is not only to punish the culprit, but, the objective of the law is also to maintain peace, tranquillity, prosperity and harmony in society as well as in the country. If there is a compromise between husband and wife and they are living to live together and to lead happy family life, then it will also be ideal in building our society. Marriage is a sacred ceremony of our society, the main objective of which is to enable the young couple to settle down in life and live peacefully. But little matrimonial skirmishes suddenly erupt which often assume serious proportions, resulting in commission of heinous crimes in which elders of the family are also involved with the result that those who could have counselled and brought about rapprochement are rendered helpless on their being arrayed as accused in the criminal case. There are many other reasons which need not be mentioned here for not encouraging matrimonial litigation so that the parties may ponder over their defaults and terminate their disputes amicably by mutual agreement instead of fighting it out in a court of law where it takes years and years to conclude and in that process the parties lose their "young" days in chasing their "cases" in different courts.

42. In the facts of the present case, the marriage of the appellant no.1 was solemnized with the complainant/victim but after some time of their marriage, the relations between the two became strained and incompatible resulting in initiation of present criminal proceedings by the complainant against her husband, father-in-law and mother-in-law i.e.

appellant nos. 1 to 3 (appellant nos. 2 and 3 have died during the pendency of the appeal). Thereafter, the appellant nos. 1 to 3 were convicted for an offence under Sections 307 and 307/34 I.P.C. under the impugned judgment. Against the said judgment of conviction, the appellants filed the present appeal. During the pendency of the appeal, after settling their all the disputes, appellant no.1 and the complainant have arrived at a compromise and now they are living happily as husband and wife under the same roof along with their major sons and daughter, and enjoying their happy family life. If this Court, in exercise of its powers under Section 374 Cr.P.C. read with Section 389 Cr.P.C. does not quash the impugned judgment of conviction, then the happy life of husband i.e. appellant no.1 and the complainant along with their major children will be ruined, especially the happy future life of sons and daughter of appellant no.1 and the complainant who have not seen anything yet and whose golden future remain yet to commence and who will suffer a lot. At the same time, it is also relevant to notice here that if a husband or a father (appellant no.1 herein) has to go to jail again, not only his wife (complainant herein) but also their children would suffer from mental trauma and they would also have to face humiliation and bad feelings in the society.

43. Accordingly, while relying upon the law laid down by the Three Judges' Full Bench of the Apex Court in the case of **Gian Singh (Supra)**, and Two Judges' Bench of the Apex Court in the case of **Ramgopal (Supra)** and considering the peculiar facts and circumstances of the present case, this Court, in exercise of its powers under Sections 374/389 Cr.P.C., allows the present appeal and quash the impugned judgment of conviction dated 8th December, 1987 passed by the Special Judge (E.C. Act), having regard to the contents of the compromise so entered into between the parties, the nature of the offence and injuries sustained by the complainant, the period of incident i.e. 1983, the fact that there is nothing on record to evince that either before or after the purported compromise, any untoward incident transpired between the appellant no.1 and the complainant, both are

living together happily as husband and wife and also looking to the fact that they are senior citizens and their children have attained majority.

44. Consequently, the impugned judgment and order dated 8th December, 1987 passed by the Special Judge (E.C. Act) in Sessions Trial No. 376 of 1984 (State Vs. Pramod Kumar & 2 Others) under Sections 307 and 307/34 I.P.C., Police Station-Zarifnagar, District-Budaun is set aside on the basis of compromise so entered between the appellant no.1 and the victim/complainant, who are none other than the husband and wife. Hence, the appellant no.1 is acquitted from the charge so altered by this Court herein above i.e. Section 324 I.P.C.

45. Since the appellant no.1 is reported to be on bail, he needs not surrender before the court below, unless he is wanted in any other case on compliance of the provisions of Section 437-A Cr.P.C. His bail bond shall be deemed to have been discharged.

46. Let a copy of this judgment be sent to the Chief Judicial Magistrate, Budaun, henceforth, for necessary compliance.

47. Subject to the observations made above, the present criminal appeal is **allowed**.

48. There shall be no order as to costs.

49. The original records already summoned shall be returned to the concerned court below.

September 26, 2025
Sushil/-

(Madan Pal Singh,J.)