

IN THE HIGH COURT OF ORISSA AT CUTTACK**CRLMC No. 2847 of 2021**

An application under Section 482 of the Code of Criminal Procedure challenging the FIR /Criminal Proceeding in C.T. (Special) Case No. 34 of 2021 in the Court of the learned Judge, Special Court, Dhenkanal arising out of Motanga P.S. Case No. 90 of 2021 .

1. *Biranchi Narayana Satpathy*
2. *Kananabala Satpathy*
3. *Sanu @ Charitartha Satpathy*
4. *Punyasloka Satpathy* ... *Accused /*
Petitioners

-versus-

1. *State of Orissa*
2. *Sampatia Dalei* (*Informant*)
3. *Pintu Dalei* (*Injured*)
.... *Opp. Parties*

Advocates who appeared in this case through Hybrid Mode :

For Petitioners : Mr. Priya Ranjan Singh,
Advocate

For Opp. Parties : Mr. Sibani Shankar Pradhan,
Addl. Govt. Advocate (For O.P.1)
: Mr. Sitikant Mishra, Advocate
(For O.P.Nos.2 & 3)

CORAM:

JUSTICE SAVITRI RATHO

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Date of Judgment :25.03.2022
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Savitri Ratho, J This application under Section 482 of the Code of Criminal Procedure (in short “the Cr.P.C”) has been filed by the accused – petitioners for quashing the F.I.R./Criminal proceeding in C.T. (Special) Case No. 34 of 2021 arising out of Motanga P.S. Case No. 90/2021 for commission of offences punishable under Sections 341/ 294/ 326/ 307/ 452/ 506/ 34 of the Indian Penal Code (in short “IPC”) read with Section 3(1) (r) (s) (2) (v) (va) of Scheduled Caste and Schedule Tribe (Prevention of Atrocities) Act (in short the “SC and ST Act”) pending in the court of learned Judge, Special Court, Dhenkanal on the ground of compromise amongst the parties.

2. The prosecution case in brief as per the FIR lodged by Opp Party No 2 is that 23.05.2021 at about 4.00pm while he was sleeping in his r house , he received information that Sanu Satpathy had assaulted his son Pintu Dalei with a sharp edged weapon on his head and thereafter absconded . With the assistance of some others , he took his son to Meramandali Hospital .While he was undergoing treatment in the hospital , all the petitioners entered the room and started assaulting him . On receiving information when the police arrived , the accused persons went outside and abused in foul language and threatened to kill them. Then they went to his house and gave threats . Father of Sanu Satpathy holding sword , referring

to their caste threatened to cut them to pieces and wipe out their family . His wife threatened that they would not allow the informants family to stay in the village .

3. When the matter was listed on 23.12.2021 for fresh admission , Opposite Party Nos.2 & 3 suo motu entered appearance through Mr. Sitikant Mishra, learned counsel and considering the submission that the matter had been amicably settled between the parties , this Court had directed the parties to appear in person on 04.01.2022 . On 04.01.2022 , the Petitioner No.1- Biranchi Narayan Satpathy, Petitioner No.2-Kananabala Satpathy , Petitioner No.3- Sanu @ Charitartha Satpathy and Petitioner no.4-Punyasloka Satpathy duly identified by Mr. P.R. Singh, learned counsel for the petitioners and Opposite Party No.2-Sampatia Dalei and Opposite Party No.3-Pintu Dalei duly identified by Mr. Sitikant Mishra learned counsel for the Opposite party Nos.2 & 3 had appeared in Court. They stated that the matter has been settled between them and as all of them belong to one village, the injured and the informant do not want to proceed with the case . The affidavits filed by the petitioners , opposite party no.2 and opposite party no.3 in support of their submission regarding amicable settlement had been directed to be served on Mr. S.S. Pradhan, learned Additional Government Advocate to enable him to obtain instruction from the

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I.O. if the amicable settlement has been effected voluntarily without any threat and coercion on the Opp parties No 2 and 3.

4. Thereafter the case was listed on 08.02.2022 and Mr. S.S. Pradhan, learned Additional Government Advocate filed the instructions of the I.O. dated 12.01.2022 who has stated that he has enquired into the genuineness of settlement of the matter between the parties in this case and ascertained that as per the statement of victim-Pintu Dalei and complainant-Sampatia Dalei, they have compromised the matter amongst them by way of an affidavit and they have also submitted written petitions before the I.I.C., Motonga P.S. which are enclosed with his instructions.

5. Perusal of the petitions annexed to the instructions of the I.O. reveals that the victim-Pintu Dalei and complainant-Sampatia Dalei have inter alia stated that due to intervention of the village gentlemen and well wishers, the matter had been settled between the parties and they are living peacefully and the relation between them is now cordial for which they have no objection if the proceeding is quashed.

6. Mr. Priya Ranjan Singh, learned counsel for the petitioners submitted that though the case has been registered and preliminary chargesheet has been submitted for commission of various offences out of which , the offences under Section – 294 and Section - 307 of

IPC and the offences under the SC & ST Act are non compoundable under Section 230 of the CrI.P.C , but as per the decision of the Supreme Court in the case of ***Ram Gopal vrs. State of Madhya Pradesh*** reported in **2021 (II) OLR SCC 807** , offences punishable under Section SC & ST (PoA) Act, can be quashed on the basis of compromise in exercise of power under Section – 482 CrI.P.C . He also relies on the decisions of the Supreme Court in the case of ***Narinder Singh v State of Punjab*** reported in **(2014) 6 SCC 466** and in the case of ***Gian Singh v. State of Punjab*** reported in **(2012) 10 SCC 303** in support of his submissions that proceedings involving non compoundable offences can be quashed on the basis of compromise in exercise of inherent power .

7. Mr. S.S. Pradhan, learned Additional Government Advocate submits that though the proceedings involving non-compoundable offences are being quashed on the basis of compromise in exercise of power under Section – 482 of the CrI.P.C , the Hon'ble Supreme Court in the case of the ***State of Madhya Pradesh vrs. Laxmi Narayan*** reported in **(2019) 5 SCC 688** has deprecated the practice of quashing of proceedings which involve on offence under Section 307 I.P.C only on the ground of compromise in a mechanical manner and has laid down guidelines which should be followed while considering such a case. He also submits that the case of ***Ram Gopal*** **CRLMC No. 2847 of 2021**

(supra) relied on by the counsel for the petitioners does not relate to any offence under the SC and ST (Prevention of Atrocity) Act as the accused in that case had already been acquitted of the said offences by the trial Court .

8. The decision in ***B.S Joshi*** (supra), ***Nikhil Merchant*** and ***Manoj Sharma*** were doubted by a two judge Bench in ***Gian Singh vs. State*** :***(2010) 15 SCC 118*** on 23.10.2010 and hence the matter was referred to a larger Bench and the reference was answered by a three judge Bench in ***Gian Singh vs. State of Punjab & Anr.***: ***(2012) 10 SCC 303***. After referring to and discussing a vast number of decisions of the Supreme Court and High court, the Supreme Court held that the decisions in ***B.S. Joshi*** (supra), ***Nikhil Merchant*** (supra) and ***Manoj Sharma*** (supra) could not be said to be not correctly decided. The relevant portions of the decision are extracted below:

...“61. *The position that emerges from the above discussion can be summarized thus: the power of the High Court in quashing a criminal proceeding or FIR or complaint in exercise of its inherent jurisdiction is distinct and different from the power given to a criminal court for compounding the offences under Section 320 of the Code. Inherent power is of wide plenitude with no statutory limitation but it has to*

be exercised in accord with the guideline engrafted in such power viz.:

- (i) to secure the ends of justice, or*
- (ii) to prevent abuse of the process of any court.*

In what cases power to quash the criminal proceeding or complaint or FIR may be exercised where the offender and the victim have settled their dispute would depend on the facts and circumstances of each case and no category can be prescribed. However, before exercise of such power, the High Court must have due regard to the nature and gravity of the crime. Heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. cannot be fittingly quashed even though the victim or victim's family and the offender have settled the dispute. Such offences are not private in nature and have a serious impact on society. Similarly, any compromise between the victim and the offender in relation to the offences under special statutes like the Prevention of Corruption Act or the offences committed by public servants while working in that capacity, etc.; cannot provide for any basis for quashing criminal proceedings involving such offences. But the criminal cases having overwhelmingly and predominatingly civil flavour stand on a different footing for the purposes of quashing, particularly the offences arising from commercial, financial, mercantile, civil, partnership or such like transactions or the offences arising out of matrimony relating to dowry, etc. or the family disputes where the wrong is basically private or personal in nature

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

In the case of **Narinder Singh** (*supra*) , the Supreme Court , has held as follows:

... “ 31. In view of the aforesaid discussion, we sum up and lay down the following principles by which the High Court would be guided 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:

(I) 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.

(II) 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.

(III) 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 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.

(IV) On the other, those criminal cases having overwhelmingly and pre-dominantly 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.

(V) 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.

(VI) Offences under Section 307 IPC would fall in the category of heinous and serious offences and therefore is 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/delegate 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 later 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.

(VII) 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 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.

In the case of **Laxmi Narayan** (supra) this Court has held as follows:

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

i) that the power conferred under Section 482 of the Code to quash the criminal proceedings for the non-compoundable offences under Section 320 of the Code can be exercised having overwhelmingly and predominantly the civil character, particularly those arising out of commercial transactions or

arising out of matrimonial relationship or family disputes and when the parties have resolved the entire dispute amongst themselves;

ii) such power is not to be exercised in those prosecutions which involved heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. Such offences are not private in nature and have a serious impact on society;

iii) similarly, such power is not to be exercised for the offences under the special statutes like Prevention of Corruption Act or the offences committed by public servants while working in that capacity are not to be quashed merely on the basis of compromise between the victim and the offender;

iv) offences under Section 307 IPC and the Arms Act etc. would fall in the category of heinous and serious offences and therefore are to be treated as crime against the society and not against the individual alone, and therefore, the criminal proceedings for the offence under Section 307 IPC and/or the Arms Act etc. which have a serious impact on the society cannot be quashed in exercise of powers under Section 482 of the Code, on the ground that the parties have resolved their entire dispute amongst themselves. However, the High Court would not rest its decision merely because there is a mention of Section 307 IPC in the FIR or the charge is framed under this provision. It would be open to the High Court to examine as to whether incorporation of Section 307 IPC is there for the sake of it or the prosecution has collected sufficient evidence, which if proved, would lead to framing the charge

under Section 307 IPC. For this purpose, it would be open to the High Court to go by the nature of injury sustained, whether such injury is inflicted on the vital/delegate parts of the body, nature of weapons used etc. However, such an exercise by the High Court would be permissible only after the evidence is collected after investigation and the charge sheet is filed/charge is framed and/or during the trial. Such exercise is not permissible when the matter is still under investigation. Therefore, the ultimate conclusion in paragraphs 29.6 and 29.7 of the decision of this Court in the case of Narinder Singh (supra) should be read harmoniously and to be read as a whole and in the circumstances stated hereinabove;

v) while exercising the power under Section 482 of the Code to quash the criminal proceedings in respect of non-compoundable offences, which are private in nature and do not have a serious impact on society, on the ground that there is a settlement/compromise between the victim and the offender, the High Court is required to consider the antecedents of the accused; the conduct of the accused, namely, whether the accused was absconding and why he was absconding, how he had managed with the complainant to enter into a compromise etc.

14. 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.”.

The case of **Ram Gopal** (supra) cited by Mr P.R. Singh , learned counsel for the petitioner is a not a case where any offence under the SC and ST Act was involved although conviction was under Section 307 IPC amongst other offences . In the said case , though charge had been framed for such an offence but the trial Court had not convicted the accused persons for commission of the said offence . Compromise had been entered into after conviction of the accused for commission of non compoundable offence like Section- 307 IPC and other offences under the I.P.C wherein it interalia held as follows :

“...18. It is now a well crystalized 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 copious 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 sublime 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 extraordinary 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.

20. Having appraised the afore stated parameters and weighing upon the peculiar facts and circumstances of the two appeals before us, we are inclined to invoke powers under Article 142 and quash the criminal proceedings and

consequently set aside the conviction in both the appeals. We say so for the reasons that:

Firstly, the occurrence(s) involved in these appeals can be categorized as purely personal or having overtones of criminal proceedings of private nature;

Secondly, the nature of injuries incurred, for which the Appellants have been convicted, do not appear to exhibit their mental depravity or commission of an offence of such a serious nature that quashing of which would override public interest;

Thirdly, given the nature of the offence and injuries, it is immaterial that the trial against the Appellants had been concluded or their appeal(s) against conviction stand dismissed;

Fourthly, the parties on their own volition, without any coercion or compulsion, willingly and voluntarily have buried their differences and wish to accord a quietus to their dispute(s);

Fifthly, the occurrence(s) in both the cases took place way back in the years 2000 and 1995, respectively. There is nothing on record to evince that either before or after the purported compromise, any untoward incident transpired between the parties;

Sixthly, since the Appellants and the complainant(s) are residents of the same village(s) and/or work in close vicinity, the quashing of criminal proceedings will advance peace,

harmony, and fellowship amongst the parties who have decided to forget and forgive any illwill and have no vengeance against each other; and

Seventhly, the cause of administration of criminal justice system would remain unaffected on acceptance of the amicable settlement between the parties and/or resultant acquittal of the Appellants; more so looking at their present age.

In the case of ***Ramavatar vs State of Madhya Pradesh*** reported in ***(2021) 84 OCR (SC) 851: 2021 SCC Online 966*** , the Supreme Court , has held power under Article 142 of the Constitution and Section 482 of the Code of Criminal Procedure can be exercised to quash proceedings which involve offences under the SC and ST Act , but it has given a note of caution that while dealing with such cases , the Court has to be extremely circumspect in its approach as the SC and ST Act has been specifically enacted to deter acts of indignity, humiliation and harassment against members of Scheduled Castes and Scheduled Tribes. It has also held powers under Article 142 or under Section 482 Cr.P.C., can be exercised in post conviction matters only where an appeal is pending before one or the other judicial forum . The relevant portions of the decision are extracted below :

... “12. In view of the settled proposition of law, we affirm the decision of this Court in *Ramgopal (Supra)* and reiterate that the powers of this Court under Article 142 can be invoked

to quash a criminal proceeding on the basis of a voluntary compromise between the complainant/victim and the accused.

13. We, however, put a further caveat that the powers under Article 142 or under Section 482 Cr.P.C., are exercisable in post conviction matters only where an appeal is pending before one or the other Judicial forum. This is on the premise that an order of conviction does not attain finality till the accused has exhausted his/her legal remedies and the finality is subjudice before an appellate court. The pendency of legal proceedings, be that may before the final Court, is sinequanon to involve the superior court's plenary powers to do complete justice. Conversely, where a settlement has ensued post the attainment of all legal remedies, the annulment of proceedings on the basis of a compromise would be impermissible. Such an embargo is necessitated to prevent the accused from gaining an indefinite leverage, for such a settlement/compromise will always be loaded with lurking suspicion about its bona fide. We have already clarified that the purpose of these extraordinary powers is not to incentivise any hollow hearted agreements between the accused and the victim but to do complete justice by effecting genuine settlement(s).”

... “15. Ordinarily, when dealing with offences arising out of special statutes such as the SC/ST Act, the Court will be extremely circumspect in its approach. The SC/ST Act has been specifically enacted to deter acts of indignity, humiliation and harassment against members of Scheduled Castes and Scheduled Tribes. The Act is also a recognition of the depressing reality that despite undertaking several measures,

the Scheduled Castes / Scheduled Tribes continue to be subjected to various atrocities at the hands of upper castes The courts have to be mindful of the fact that the Act has been enacted keeping in view the express constitutional safeguards enumerated in Articles 15, 17 and 21 of the Constitution, with a twin fold objective of protecting the members of these vulnerable communities as well as to provide relief and rehabilitation to the victims of caste based atrocities.

16. On the other hand, 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 482 Cr.P.C."

...“ 18. We may hasten to add that in cases such as the present, the Courts ought to be even more vigilant to ensure that the complainant victim has entered into the compromise on the volition of his / her free will and not on account of any duress. It cannot be understated that since members of the

Scheduled Caste and Scheduled Tribe belong to the weaker sections of our country, they are more prone to acts of coercion, and therefore ought to be accorded a higher level of protection. If the Courts find even a hint of compulsion or force, no relief can be given to the accused party . What factors the Courts should consider, would depend on the facts and circumstances of each case....”

9. On a careful reading of the decisions referred to above , the following conclusions can be arrived at :-

(i) The power conferred under Article 142 of the Constitution and Section 482 of Cr.P.C. for quashing of proceeding is very wide and has no statutory limitation but has to be exercised in order to secure the ends of justice or to prevent abuse of the process of any Court.

(ii) It is distinct and different from the power given to a criminal Court for compounding offences under Section 320 of the Cr.P.C.

(iii) Power under Section 482 of the Cr.P.C. for quashing criminal proceeding has to be exercised carefully keeping in mind the nature of the offence, seriousness of the injury, voluntary nature of compromise between the accused and the victim, conduct of the accused persons prior to and after the occurrence, possible effect on society and it is not to be exercised mechanically.

(iv) Where the offences are predominantly civil in nature , arise from commercial, financial, partnership or offences arising out of matrimonial dispute or family dispute where the wrongs are basically private or personal in nature and the parties have resolved their entire disputes.

(v) Possibility of conviction on account of compromise is remote and bleak and continuation of the criminal case would put the accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal cases. .

(vi) Normally, offenses under Section 307 of the IPC and Arms Act etc. and fall of category of heinous and serious offences are to be treated the crime of society and individual can't be quashed on the ground of settlement between the parties. But mere mention of Section 307 of IPC in the FIR or in the charge cannot prevent the High Court from examining the nature of injury sustained, location of the injury , nature of weapons used , but this would only be permissible after material is collected after investigation and chargesheet is filed or charge is framed.

vii) The Supreme Court in one of the cases has held in the 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 and even in cases where the charge is framed but the evidence is yet to begin , the High Court can exercise its powers favourably . In few other cases it has been decided that such power should be exercised after investigation is complete and chargesheet is filed .

(viii) Proceedings involving offences punishable under “ Special Acts” like the SC and ST Act can be quashed in exercise of power under Article – 142 of the Constitution and Section 482 of the Cr.P.C on the basis of compromise but keeping in view the over riding object for which the SC and ST Act was enacted , the Court has to be very vigilant while exercising such power so that the purpose of its enactment is not defeated .

(ix) While exercising power under Section 482 of Cr.P.C. to quash the criminal proceeding in respect of the private disputes which do not have serious impact society, on the ground there is a settlement between the victim and offender the High Court is required to be consider the antecedents of the accused , conduct of the accused and whether and why the accused is absconding and how he managed to entered into the compromise with the complainant .

10. Adverting to the facts of the present case , the allegations herein are that accused –petitioner Sanu Satpathy assaulted Pintu Dalai with a sharp edged on 23.05.2021 and fled from the spot. While the injured was being treated in the hospital , all the accused persons came and assaulted the injured and abused and threatened him . After that accused Biranchi Narayan Satpathy came to the house of the complainant with a sword and referring to their caste threatened to cut them into pieces . Accused Kananabala threatened that the informant’s family would not be allowed to stay in the village . No other person outside the two families appears to be involved in the case , so the dispute is confined to the two families . A counter case is pending .

11. While considering the prayer for bail of petitioner Kananabala , on 30.11.2021 (the certified copy of the order is annexed to the CRLMC application) , the learned Special Judge , Dhenkanal , has noted the submission of the counsel for the petitioner that is an off shoot of G.R case No 624 of 2021 which is a counter case and that investigation in the case is over and the injured had appeared in Court and stated that he is well and free from injuries and the matter had been settled between them and injured and informant had filed affidavits to that effect .

12. It appears from a perusal of the cause title of CRLMC application , FIR and the affidavits filed by the injured and informant that the accused persons and the injured and informant belong to the same village – Kharag Prasad and are neighbours . The incident is therefore in the nature of a private dispute as only the injured Sanu Satpathy has been assaulted . He has stated before the learned Court below and in his affidavit filed in this case that he is well after treatment and the matter has been settled between the parties with the intervention of village gentlemen and in view of the settlement neither he or the informant want to proceed with the case . The injured and the informant have entered appearance in this CRLMC on their own .

13. Investigation in the case is over as preliminary chargesheet has been filed against Petitioner no.2 Kananabala keeping investigation is open in respect of other petitioners under Section 173(8) of the Cr.P.C as they have not been arrested . But being co villagers , while evading arrest , they have settled the matter amicably with the injured and his father , the informant .

14. As a counter case namely is pending between the parties , so it cannot be said that the offence was committed on account of the caste of the injured or his family members. Since both sides belong to one village and no untoward incident has been reported to have taken place either before or after the settlement , the underlying object of the Act

would not be contravened if the accused persons are not punished .there is no reason to doubt that the parties themselves have voluntarily settled their differences and in my opinion , in would be in the interest of justice to give effect to the settlement and quash the proceedings as it would help heal the old wounds and help the parties to live in peace and harmony.

15. As the injured and the informant have stated that they do not want to proceed against the accused persons and the matter has been amicably settled between them , it is apparent that the chances of conviction of the accused - petitioners are bleak . So even though Petitioner No 1, 3 and 4 have evaded arrest till now , no useful purpose will therefore be served by sending them to custody or compel them to face trial .

16. In view of the amicable settlement between the parties who belong to the same village , lack of criminal antecedents of the petitioners , even though three of the petitioners have evaded arrest , as chances of conviction of the petitioners in the case are bleak , I am of the opinion that in the peculiar facts of the case , the proceedings in the case should be quashed against all the petitioners .

17. In view of the above discussion the CRLMC is allowed and the chargesheet and proceedings against in C.T. (Special) Case No. 34 of 2021 arising out of Motanga P.S. Case No. 90/2021 pending in the Court of the Special Judge , Dhenkanal against the petitioners Biranchi Narayana Satpathy, Kananabala Satpathy , Sanu @ Charitartha Satpathy and Punyasloka Satpathy are quashed .

.....
(Savitri Ratho)
Judge

Orissa High Court, Cuttack
Dated 25th March 2022 /puspa

