



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% **Reserved on: 2nd May, 2022**
Pronounced on: 13th June, 2022

+ **CRL.M.C. 1396/2011, CRL.M.A.10374/2018 & CRL.M.A. 48021/2018**

BALJIT SINGH & ANR Petitioners

Through: Mr. Maninder Singh, Sr. Advocate
with Ms. Aekta Vats and Ms.
Anshika Batra, Advocates

versus

STATE & ORS Respondents

Through: Mr. Raghuvinder Varma, APP for
State with SI Robin Tyagi, P.S.
Crime Branch.
Mr. Namit Suri, Ms. Prunima Singh
and Ms. Shivani Malik, Advocate for
R-2.
Mr. Anupam Lal Das, Sr. Advocate
with Mr. Raj Kamal, Mr. Aseem
Atwal, Mr. Anirudh Singh and Mr.
Kartavya Batra, Advocates for R-3 &
4.

CORAM:
HON'BLE MR. JUSTICE CHANDRA DHARI SINGH

J U D G M E N T

CHANDRA DHARI SINGH, J.

1. The instant Petition under Section 482 of the Code of Criminal Procedure, 1973 (hereinafter "Cr.P.C") has been filed by the petitioners



seeking quashing of F.I.R bearing No. 12/2008 registered at Police Station Crime Branch for the offences punishable under Sections 384/420/467/468/471/477/506/120-B/34 of the Indian Penal Code, 1860 (hereinafter “IPC”).

FACTUAL MATRIX

2. Brief facts of the case are that the instant FIR bearing No. 12/2008 dated 22nd October, 2008 was registered at Police Station Crime Branch, Delhi against Mr. Davinder Sharma, Mrs. Seema Sharma, Mr. Sanjay Kriplani, Mr. Baljit Singh, Mr. Kuldeep Singh and Mr. Hari Om Yadav for the offence of extortion of more than Rs. 100 crores by way of putting the complainant and his wife in fear of death. It is contended in the instant FIR that the complainant, Mr. Harbhajan Singh Chopra and his wife Mrs. Surjit Kaur Chopra are the Directors of 'Hotel Fountain Head Motel Pvt. Ltd.' (a company incorporated under the Indian Companies Act, 1956). As per the FIR, the extortion by the accused persons began way back at the end of 2007 and in the beginning of the year 2008. The complainant is a British National who migrated to England in 1995 along with his family. It is contended that few years back, the complainant came back to India and invested his lifelong earned money into 'Hotel Fountain Head Motel Pvt. Ltd./Hotel Claremont' and other properties in and around Delhi. It is further contended that one Mr. Davinder Sharma/alleged accused and his wife Mrs. Seema Sharma, whom they met in the month of September/October, 2007 through some of their common friends, started extending good gestures and develop a good rapport with them. The complainant was lured by misrepresentation and assurance to assist in expanding the operations of the



hotel. It is contended that the aforesaid accused persons along with their criminal conspirators had forced, coerced under threat of life and physical harm upon the complainant and his wife, and by way of such threats on gun point, had forced them to sign various documents and cheques for the purpose of creating liability on the company in their favour. It is further contended that under the threat, the complainant has given certain cheques, demand drafts/post dated cheques, cash and also executed sale deed in favour of the accused persons. They had provided some details of the transactions in the FIR itself. It is contended that crores of amounts have been credited in the account of Baljeet Singh for no rhymes or reason except the false documentation. Apart from the transactions which were given in the FIR, there are several other transactions which are a matter of the record. The complainants are living under threat of the aforesaid accused persons. On the aforesaid FIR, the investigating agency has completed the investigation and filed the charge-sheet against the accused persons on 23rd April, 2013.

SUBMISSIONS

On behalf of the Petitioners:

3. Mr. Maninder Singh, learned senior counsel appearing on behalf of the petitioners submitted that on 21st December, 2009, respondent no. 2 through respondents no. 3 & 4 filed a Recovery Suit bearing no. CS (OS) No. 2471/2009 before the Hon'ble High Court of Delhi against the petitioner no. 1 on the ground that the loan agreement was a forged and



fabricated document and was obtained under duress and coercion, therefore, is liable to be declared null and void.

4. Learned senior counsel for the petitioners submitted that vide order dated 1st June, 2010, the matter was referred to the Delhi High Court Mediation and Conciliation Centre on the request of respondent nos. 3 and 4 and petitioner no. 1 in the aforesaid suit i.e. CS (OS) No. 2471/2009.

5. It is submitted that respondent nos. 2 to 4 and petitioner no. 1 entered into a settlement agreement after extensive mediation sessions in the Delhi High Court Mediation Centre on 11th June, 2010, 25th June, 2010 and 8th July, 2010. It is submitted that the parties entered into the settlement agreement on 8th July, 2010, and signed the same voluntarily and on their own free will, in the presence of the Mediator/Conciliator. As per the settlement agreement, the respondent no. 2 through respondents no. 3 and 4 agreed to pay Rs. 5,50,00,000/- as full and final payment against the claim of Rs. 7,76,00,000/- to petitioner no. 1. Out of Rs. 5,50,00,000/-, Rs. 1,00,00,000/- has been paid by respondent no. 2 to petitioner no. 1 vide Cheque No. 125349 dated 27th September, 2010 drawn on Corporation Bank. The remaining amount of Rs. 4,50,00,000/- was agreed to be paid by respondents no. 2 to 4 to petitioner no. 1 within 6 months of signing the said MOU. It was also agreed that both parties will withdraw all the pending litigation and complaints which had been instituted by them against each other. In view of the aforesaid agreement, the petitioner no. 1 withdrew his police complaints against respondents no. 2 to 4 in Police Station Mehrauli, Delhi; before Crime Branch, Qutab Institutional Area, New Delhi; before EOW Crime Branch, Haryana; and a Complaint filed under Section 138 of the Negotiable Instruments Act, 1881 (NI Act), pending before learned



Metropolitan Magistrate, Tis Hazari Courts, Delhi. It is submitted that the obligations of respondents No. 3 and 4 in the said MOU, were to withdraw suit bearing no. CS (OS) No. 2471/2009 and to get the impugned FIR quashed.

6. Learned senior counsel for the petitioners submitted that on 5th October, 2010, petitioner no. 1 and respondent no. 3 got their respective statements recorded before the Joint Registrar of this Court. The Coordinate Bench of this Court vide order dated 24th November, 2010, in CS (OS) 2471/2009 observed that there was nothing illegal in the settlement arrived at between the parties and accepting the same the matter was disposed of. On 25th January, 2011, the respondents no. 3 and 4 filed an application in CS (OS) No. 2471/2009 for return of their Court fee from the Collector which was accordingly allowed.

7. It is submitted that on 27th January, 2011, petitioner no. 2 received a notice under Section 91 of the Cr.P.C. issued by Crime Branch, Police Station Sunlight Colony, New Delhi to join investigation in the impugned FIR. In the month of April, 2011, the petitioner no. 2 filed a Contempt Petition bearing No. CCP(O) No. 21/2011 in CS (OS) No. 2471/2009. The petitioner no. 1 filed an execution petition bearing No. Ex. P. No. 179/2011 against respondent no. 2 and the Coordinate Bench of this Court ordered warrants of attachment against respondent no. 2.

8. It is further submitted that on 1st August, 2011, the petitioners and respondents no. 2 to 4 entered into a second MOU and the same was registered before the Sub Registrar, Mehrauli, New Delhi. As per the MOU dated 1st August, 2011, it was agreed that respondent no. 3 shall file an affidavit before the concerned Police Station for quashing of the impugned



FIR. It was further agreed that respondent no. 3 shall withdraw the application for recalling order dated 24th November, 2010 in CS (OS) No. 2471/2011. The respondent no. 3 undertook to fully co-operate in all possible respects with the petitioners for the purpose of quashing of the impugned FIR. For this purpose, respondent no. 3 undertook to depose on affidavit(s) before this Court for getting the impugned FIR quashed and would make appropriate statements for the discharge of the petitioners.

9. Learned senior counsel for the petitioners vehemently submitted that respondents no. 3 and 4 signed and attested their counter affidavits in which they have categorically stated that they did not want to pursue the impugned FIR against the petitioners herein. Respondents no. 2 to 4 also moved an application bearing CRL. M. A. No. 9400/2011 in CRL. M. C. No. 1396/2011 pursuant to the MOU dated 1st August, 2011, acknowledging the said MOU, stating therein that they do not wish to pursue the impugned FIR against the petitioners herein. On 10th August, 2011, the petitioner no. 1 withdrew the Execution Petition against respondent no. 2.

10. It is further submitted that from the above facts and circumstances, the only question of law which remains to be decided is whether respondents no. 3 and 4 can be permitted to retract from two formal dispute resolutions at their whims and fancies, thereby, making a mockery of the legal system and the Mediation Centres.

11. In support of his arguments, learned senior counsel for the petitioners has relied upon the judgment of ***Dalbir Singh vs. State & Ors., CrI. M. C. No. 1852/2011***, passed by the Coordinate Bench of this Court, relying on the landmark Judgment of the Hon'ble Supreme Court titled, "***Md. Shamim***



& Ors, vs. Smr. Nahid Begum & Anr.”, (2005) 3 SCC 302, has observed the following:

“18. This issue is not res integra. The same has been settled by the Apex court in a case of Md. Shamim & Ors, vs. Smr. Nahid Begum & Anr., (2005) 3 SCC 302, has observed as under: -

11. ...before us, there is no denial or dispute as regard that factum of entering into the aforementioned settlement dated 14.11.2022. in the said deed of compromise, it has categorically been averred that the same had been entered into on the intervention of S.N Gupta, Additional Sessions Judge, Delhi. It has also been accepted that out of sum of Rs. 2,75,000/-, a sum of Rs. 2,25,000/- has been paid to the First Respondent herein and the balance amount of Rs. 50,000/- would be paid at the time of complainant's making statement and no objection for quashing the FIR, which was retained in the court as per the direction of the court. It has further been averred that no dispute remained between the parties regarding the payment of dower amount (Mehar), dowry articles, including the alleged jewellery gift, etc.

12. In view of the fact that the settlement was arrived at the intervention of a judicial officer of the rank of the Additional Sessions Judge, we are of the opinion, the contention of the First Respondent herein to the effect that she was not aware of the contents thereof and the said agreement as also the affidavit which were got signed by her by misrepresentation of facts must be rejected. In the facts and circumstances of this case, we have no doubt in our mind that the denial of execution of the said deed of settlement is an afterthought on part of the Respondent No. 1 herein.



13. Ex facie the settlement between the parties appears to be genuine. If the contention of the First Respondent herein is to be accepted, she would not have accepted the sum of Rs.2,25,000/- and in any even she could have filed an appropriate application in that behalf before the Court of S.N Gupta, Additional Sessions Judge, Delhi. What was least expected of her was that she would return the said sum of Rs. 2,25,000/- to the Appellants herein.

12. It is apposite to mention here that respondents no. 3 & 4 have never filed any Civil Suit to declare the Settlement Agreement dated 8th July, 2010 and MOU dated 1st August, 2011, null and void. They reaped all the benefits of the settlement and created hurdles for the Petitioners to settle their personal scores with Respondent No. 2.

13. It is submitted that the Coordinate Bench of this Court in Para 4 of the Judgment ***Naresh Chand Jain & Anr. vs. KM Tayal***, CM (M) No. **1405/2009**, dated 23rd February, 2012, has observed that:-

“4. ... Section 89 was introduced into the Code (Code of Civil Procedure, 1908) by the amendment of 2002; the legislative intent was to encourage settlement of disputes through the mechanism of Alternate Dispute Resolution (ADR); Section 89 (2) provides that where the dispute has been referred for mediation, the Court shall effect a compromise between the parties and shall follow such procedure as may be prescribed. Rules 24 & 25 of the Mediation and Conciliation Rules, 2004 also stipulates the manner in which the settlement has to be recorded and after the settlement has been recorded .i.e. on the receipt of settlement, the Court, if satisfied that the parties have settled their disputes, shall pass a decree in accordance thereof. ...”



14. It is submitted that in the present petition, the settlement between petitioner no. 1 and respondents no. 2 to 4 took place before the Delhi High Court Mediation Centre. In CS (OS) No. 2471/2009 filed by Respondent No. 3, the mediation was extensive and took place from 1st June, 2010 to 8th July, 2010 and finally on 8th July, 2010, the MOU was entered into by the parties voluntarily, in the presence of the Mediators, and without any force, duress or coercion. The petitioners pursuant to the said MOU, complied with all their obligations but respondents no. 3 and 4, for their ulterior motives and illegal gains, have been opposing the quashing of the impugned FIR to extort illegal money from the petitioners.

15. It is submitted that not only this, a second MOU dated 1st August, 2011 was also executed and registered before the Sub-Registrar, Mehrauli, New Delhi, between the petitioners and respondents no. 2 to 4. But again, respondents no. 2 to 4 have tried to wriggle out of the same. The whole purpose and import of Section 89 of the Code of Civil Procedure, 1908, (hereinafter 'CPC') would be frustrated, if settlements arrived at between the parties by their own free will and consent are permitted to be withdrawn and allowed to be given a go by. In fact, the settlement arrived at in the Delhi High Court Mediation Centre is a legal process and terms and conditions of such process are binding on both the parties.

16. The Courts have also held that once disputes are settled by the process of mediation, it would be in the public interest as well as to attach importance to such a process and treat the settlement as solemn settlement,



otherwise, the movement of mediation may itself suffer, if the parties are given to understand that even after they agree for settlement, one of the parties can still back out/ resale.

17. It is therefore submitted that the FIR as well as criminal prosecution emanating therefrom, has been quashed by the Hon'ble Supreme Court and by this Court in various cases where the complainant has tried to wriggle out of any such settlement. Moreover, in cases where the complainant has enjoyed benefits out of the MOU, the Courts have not hesitated to quash such criminal proceedings.

18. In view of the above facts and circumstances, it is urged that the entire criminal proceedings initiated against the petitioners is nothing but a gross misuse of process of law and also since the disputes between the parties have already been settled twice and MOUs have been signed by the respondents and petitioners for quashing of the criminal cases and other pending cases against each other, the instant FIR and the charge-sheet may be quashed.

Submissions on behalf of the Respondents:

19. Mr. Anupam Lal Das, learned senior counsel for the respondents vehemently opposed the submissions and contentions made by the learned senior counsel for the petitioners and submitted that respondents no. 3 and 4 were held captive under house arrest by one Mr. Krishan Kumar along with other accused persons and a lot of documents were signed by the respondents no. 3 and 4 under coercion and undue influence of the above-



named persons. Therefore, it is wrong to say that the MOUs signed by the respondents were on their own free will and without pressure.

20. Learned senior counsel for the respondents submitted that since the respondents no. 3 and 4 were the ones who got the present FIR registered and filed for the suit for cancellation of coerced loan agreements, then there was no need or requirement for the respondents no. 3 and 4 to pay Rs. 5.50 Crores to the petitioners accused persons to settle the disputes. The fact that mediation agreement is patently flawed and coerced will be borne out of the fact that the respondent no. 4 was a major and equal shareholder in respondent no. 2 Company along with respondent no. 3, was neither present at the time of execution of the agreement and nor was a signatory to it. It is also important to note that petitioner no. 2/Kuldeep Singh was also missing from the said agreement as he was holding respondent no. 4 in captivity and hostage and the respondent no. 3 was forcefully sent to sign the said agreement before the Delhi High Court Mediation Centre.

21. Learned counsel for the respondents submitted that the respondent no. 2 company was not a signatory to the said agreement, moreover, no board resolution was passed or authority letter was sanctioned for signing the agreement for the Company. Thus, creating a serious doubt over the validity of the settlement agreement, as the signatures of the respondents no. 2 and 3 were conspicuously missing from the settlement, which is not only a mandatory requirement but also essential for the said document to be a legally sustainable document. Hence, the said settlement has no legal enforceability and is *non-est* in the eyes of law.



22. It is submitted that in the past, a lot of illegally unsustainable settlements were being executed where the parties were arm-twisted to settle the dispute by the aggressor. Since there was no requirement of validation of MOU by a committee before the Mediation Centre, the same has been required to be mandatory after the directions of this Court in the matter of ***Vinod Kumar and Others & Govt of NCT of Delhi & Anr., Crl. M.C. 4286/2019:***

"... As observed vide order dated 17.01.2020 in Crl.M.C.214/2020, the learned trial Courts making reference to mediation proceedings ought to take into account the guidelines laid down in Afcons Infrastructure Limited & Another v. Cherian Varkey Construction Company Private Limited; (2010) 8 SCC 24 as well as the guidelines laid down by this Court in Yashpal Chaudhrani & Ors. v. State (Govt. of NCT of Delhi) and Another 2019 SCC OnLine Del 8179 whereby it has been observed to the effect that:

67. This Court is of the firm view that before making a reference to mediation in the context of criminal case, the court must consider as to whether a settlement reached by such effort would be acceptable for the criminal process to be brought to an end.

(emphasis supplied)

.....

71. To sum up, this Court is of the considered opinion that there has to be circumspection at all stages and: (i) The court while considering reference of the parties to a criminal case to mediation must before even ascertaining as to whether elements of settlement exist first examine, by preliminary scrutiny, the permissibility in law for the criminal action to be brought to an end either because the offence involved 'is compoundable or because the High Court would have no inhibition to quash it, bearing in mind the broad principles that govern the exercise of jurisdiction under Section 482



Cr.P.C. (ii) The mediator (before commencing mediation) must undertake a preliminary scrutiny of the facts of the criminal case and satisfy himself as to the possibility of assisting the parties to such a settlement as would be acceptable to the court, bearing in mind the law governing the compounding of the offences or exercise of power of the High Court under Section 482 Cr.P.C For this, an institutional mechanism has to be created in the mediation centers so that there is consistency and uniformity in approach. The scrutiny in above nature would also need to be undertaken, as the mediation process continues, should any such criminal case, as mentioned above, be brought on the table by the parties (for being included in the settlement), as takes it beyond the case initially referred. (iii) The system of vetting, at the conclusion of the mediation process, needs to be institutionalized so that before a settlement vis-a-vis a criminal case is formally executed by the parties, satisfaction is reached that the criminal charge involved is one which is either compoundable or one respecting which there would be no inhibition felt by the High Court in exercise of its inherent power under Section 482 of Cr.P.C bearing in mind the relevant Jurisprudence.

72. It is hoped and expected that the criminal courts, and the mediation centres shall abide by the above guidelines in future. It may be added that the above would equally apply mutatis mutandis to the other ADR methods.”

The learned trial Courts are thus directed to adhere to the law at the time of making referral of cases to Mediation especially in relation to non-compoundable offences involving gross allegations of mental depravity against the accused persons. The petition is disposed of accordingly.”

23. It is submitted that the accused petitioners along with Krishan Kumar realized their mistake and another settlement agreement dated 1st August, 2011 was coerced and illegally executed under the supervision of Krishan



Kumar, who stood as a witness and on the same terms and condition as were mentioned in MOU dated 8th July, 2010 before the High Court Mediation Centre. The accused petitioner Kuldeep Singh was also made party to this new settlement. It is categorically stated in the present petition that if the settlement fails then the case will be fought on its own merits.

24. Learned senior counsel for the respondents submitted that on 28th March, 2011, another MOU was signed between the accused Devender Sharma, Krishan Kumar, and Respondent Nos. 3 and 4, wherein it was categorically admitted that the disputed property was valued at about Rs. 110 crores. That as such, no person of sound mind would give 76% shareholdings in the Respondent No. 2 company for a mere sum of Rs. 6.6 crores, which was never transferred to the shareholders respondents nos. 3 and 4 but were transferred to the company which was taken over by Krishan Kumar on the very same day. Thus, it was a sham transfer and the money went from one pocket to the pocket of Krishan Kumar and the respondents No. 2 Company was taken over by Krishan Kumar without paying a dime to the respondent nos.3 and 4. That to this effect a Civil Suit bearing no. CS(OS) 299/2012 is currently pending before the learned ADJ, Saket Court, New Delhi.

25. It is submitted that as stated above the MOU dated 8th July, 2010 and the outside Court settlement dated 1st August, 2011 are documents created under coercion and undue influence for which the issue can be decided by the Trial Court on merit and no relief can be granted in the quashing petition for the facts and circumstances mentioned herein above. It is informed that the quashing petition of accused Devender Sharma bearing



CRL. MC No.1981/2013 was dismissed as withdrawn vide order dated 6th August, 2015 passed by the Coordinate Bench of this Court, wherein also several coerced and under threat MOUs and deeds of settlements were entered into with the respondents no. 3 and 4.

26. Learned senior counsel for the respondents submitted that even an application under Section 156(3) of the Cr.P.C. is pending before the competent court for registration of FIR against Krishan Kumar.

27. It is vehemently submitted that serious allegations of extortions, cheating, fraud, forgery are leveled against the petitioners along with Devender Sharma and others. The further investigation is also pending. Thus, it is not a fit case where this Hon'ble Court ought to appreciate evidence for which the Trial Court is the designated Court. It is submitted that the present matter is pending since the year 2011 and the prayer for quashing of FIR was made at that time, however, the charge-sheet was filed on 23rd April, 2013 and as such, the present petition seeking quashing of FIR has now become infructuous and the remedy available to the accused persons is to argue before the Trial Court at the time of argument on charge.

28. It is pertinent to mention that the respondents no. 3 and 4 specifically assert that the agreements on the basis of which the quashing petition has been filed, is signed by the Respondent No. 3 and has been signed by him under duress and coercion. It is further submitted that the settlement agreement dated 8th July, 2010 clearly states the force and threat, coercion etc. under which the respondents no. 3 and 4 signed the agreement. The said agreement states that the respondent Nos. 3 and 4 are withdrawing all the



cases against the petitioners herein and paying amount of Rs. 5.50 crores. There has been no settlement of disputes as sought to be portrayed by the said agreements. It is prayed that the FIR as well as the charge-sheet should not be quashed by this Court.

29. It is submitted that the petitioners herein are land grabbers and history sheeters and multiple heinous criminal cases are registered against them in the State of NCT of Delhi and State of U.P. in addition to the present FIR. The petitioners themselves in the quashing petition have not made averments of having clean antecedents. The following are the list of few cases in Delhi reflecting the past antecedents of the accused Petitioners:-

S No.	Particulars	U/S IPC
	AGAINST ACCUSED BALJIT SINGH	
1.	FIR No.08 of 1997 at PS. Mahipalpur	392/34
2.	FIR No. 179 of 2000 at PS. Kapashera	394/34
3.	FIR No.310 of 2002 at PS. D.B.G Road	25
4.	FIR No.24 of 2002 at PS. D.13.G Road	392/34
5.	FIR No.173 of 2009 at PS. Kirti Nagar .	420/468/471
	AGAINST ACCUSED KULDEEP SINGH	
1.	FIR No. 455/2014 AT PS. SECTOR 23	376D/506/328/34

30. It is imperative to mention that Section 89 of the CPC prescribes as under:-



"Where it appears to the Court that there exist elements of a settlement which may be acceptable to the parties, the Court shall formulate the terms of settlement and give them to the parties for their observations and after receiving the observations of the parties, the Court may reformulate the terms of a possible settlement and refer the same for:- a) arbitration b)conciliation c) Judicial settlement including settlements through lok Adalat or d) mediation."

The settlement in question is a settlement where one party was forced and coerced to sign the said settlement agreement. It is pertinent to mention that the criminal courts are not bound by the law laid down in CPC and the same is rectified by the Hon'ble Apex Court in many judgments. In this regard reliance was placed on decisions of the Hon'ble Supreme Court in ***Karam Chand Ganga Prasad v. Union of India*, (1970) 3 SCC 694 & KG. Premshankercase (2002) 8SCC 87.**

31. Learned senior counsel for the respondents further submitted that in ***Kaptan Singh v. State of U.P.*, (2021) 9 SCC 35**, the Hon'ble Supreme Court held that :

"9.1 At the outset it is required to be noted that in the present case the High Court in exercise of powers under Section 482 Cr PC has quashed the criminal proceedings for the offences under Sections 147, 148, 149, 406, 329 and 386 IPC. It is required to be noted that when the High Court in exercise of powers under Section 482 CrPC quashed the criminal proceedings, by the time the investigating officer after recording the statement of the witness, statement of the complainant and collecting the evidence from the incident place and after taking statement of the independent witnesses and even statement of the accused persons, has filed the



*charge-sheet before the learned Magistrate for the offences under Sections 147, 148, 149, 406, 329 and 386 IPC and even the learned Magistrate also took the cognizance. If the petition under Section 482 CrPC was at the stage of FIR in that case the allegations in the FIR/complaint only are required to be considered and whether a cognizable offence is disclosed or not is required to be considered. However, thereafter when the statements are recorded, evidence is collected and the charge-sheet is filed after conclusion of the investigation/inquiry the matter stands on different footing and the Court is required to consider the material/evidence collected during the investigation. Even at this stage also, as observed and held by this Court in a catena of decisions, the High Court is not required to go into the merits of the allegations and/or enter into the merits of the case as if the High Court is exercising the appellate jurisdiction and/or conducting the trial. As held by this Court in *Dineshbhai Chnadubhai v. State of Gujarat* (2018) 3 SCC 104 : (2018) 1 SCC (Cri) 683] in order to examine as to whether factual contents of the FIR disclose any cognizable offence or not, the High Court cannot act like the investigating agency nor can exercise power like an appellate court. It is further observed and held that the question is required to be examined keeping in view, the contents of FIR and prima facie material, if any, requiring no proof. At such stage, the High Court cannot appreciate evidence nor it can draw its own inferences from contents of the FIR and material relied on. It is further observed it is more so, when the material relied on is disputed. It is further observed that in such a situation, it becomes the job of an investigating authority at such stage to probe and then the Court should examine questions once the chargesheet is filed along with such material as to how far and to what extent reliance can be placed on such a material.*

9.2 *In Dhruvaram Murlidhar Sonar v. State of Maharashtra*, (2019) 18 SCC 191 : (2020) 3 SCC (Cri) 672 after considering the decisions of this Court in *Bhajan Lal {State of Haryana v. Bhajan Lal 1992 Supp (1) SCC 335: 1992 SCC (Cri) 426}*, it is held by this Court that exercise of powers under Section 482



CrPC to quash the proceedings is an exception and not a rule. It is further observed that inherent jurisdiction under Section 482 CrPC though wide is to be exercised sparingly, carefully and with caution, only when such exercise is justified by tests specifically laid down in the section itself. It is further observed that appreciation of evidence is not permissible at the stage of quashing of proceedings in exercise of powers under Section 482 CrPC. Similar view has been expressed by this Court in Arvind Khanna CBI v. Arvind Khanna, (2019) 10 SCC 686, referred to hereinabove.

12. Therefore, the High Court has grossly erred in quashing the criminal proceedings by entering into the merits of the allegations as if the High Court was exercising the appellate jurisdiction and/or conducting the trial. The High Court has exceeded its jurisdiction in quashing the criminal proceedings in exercise of powers under Section 482 CrPC."

32. It is submitted that in ***State of Odisha v. Pratima Mohanty Etc., 2021 SCC Online SC 1222***, the Hon'ble Supreme Court held that:

"14. At the outset, it is required to be noted that by the impugned judgment and order the High Court in exercise of its powers under Section 482 Cr.P.C. has quashed the criminal proceedings for the offences under Section 13(2) read with Section 13(1)(d) of the Act and Section 420 read with Section 120B IPC. From the impugned judgment and order passed by the High Court, it appears that the High Court has entered into the merits of the allegations and has conducted the mini-trial by weighing the evidence in detail which, as such, as observed and held by this Court in a catena of decisions is wholly impermissible. As held by this Court in the case of *State of Haryana v. Ch. Bhajan Lal*, 1992 Supp (1) SCC 335 : AIR 1992 SC 604, the powers under Section 482 Cr.P.C. could be exercised either to prevent an abuse of process of any court and/or otherwise to secure the ends of justice. In the said



decision this Court had carved out the exceptions to the general rule that normally in exercise of powers under Section 482 Cr.P.C. the criminal proceedings/FIR should not be quashed....

22. *While quashing the criminal proceedings the High Court has not at all adverted to itself the aforesaid aspects and has embarked upon an enquiry as to the reliability and genuineness of the evidence collected during the investigation as if the High Court was conducting the mini-trial. Therefore, as such the impugned judgment and order passed by the High Court quashing the criminal proceedings against the respondents herein - original accused Nos. 4, 5 and 3 - Smt. Pratima Mohanty, Shri Prakash Chandra Patra and Shri Rajendra Kumar Samal is unsustainable, both, in law and/or facts and the same deserves to be quashed and set aside."*

33. It is submitted that in ***Satyendra Kumar Jain & Anr. V. State and Anr. In CrL.M.C No. 5553-54/2006***, dated 1st July 2010, coordinate bench of this Court has stated that:

"17. The Respondents also submit that once a charge sheet has been filed, FIR cannot be quashed. A charge sheet is the culmination of the investigation by the police and is accompanied by necessary documents, statement of witnesses etc. Thus a petition praying for simplicitor quashing of FIR becomes infructuous on filing of the charge sheet. The only resort with the accused in such a situation is either to challenge the charge sheet as not making out any offence or argue before the trial court at the stage of framing of charge."

34. The Hon'ble Supreme Court in ***State of Madhya Pradesh v. Kalyan Singh & Ors. SLP (CrL) No. 5632 of 2014*** dated 4th January, 2019 has stated that:-



"3.1. ... the fact remains that the accused was facing the criminal proceedings for the offences under Sections 307, 294 read with Section 34 of the IPC and that the offences under these sections are not non-compoundable offences and, looking to the serious allegations against the accused we are of the opinion that the High Court has committed a grave error in quashing the criminal proceedings for the offences under Sections 307, 294 read with Section 34 of the IPC solely on the ground that the original Complainant and the accused have settled the dispute... In the said decision, this Court has specifically observed and held that, despite any settlement between the Complainant on the one hand and the accused on the other, the criminal proceedings for the offences under Section 307 of the IPC cannot be quashed, as the offence under Section 307 is a non compoundable offence."

35. In view of the aforesaid facts and circumstances, learned counsel for the respondents submitted that instant petition is devoid of any merits and is liable to be dismissed.

ANALYSIS AND FINDINGS

36. Heard learned counsel for the parties at length and perused the record.

37. The inherent power of the High Court to quash a non-compoundable offence is not circumscribed by any of the provisions of the Cr.P.C, including Section 320. Section 482 of the Cr.P.C is a declaration of the inherent power, pre-existing in the High Court and so long as the exercise of the inherent power falls within the parameters of Section 482 of the Cr.P.C., it shall have an overriding effect over any of the provisions of the Cr.P.C. In exercise of its inherent powers under Section 482 of the Cr.P.C., High Court may permit compounding of a non-compoundable offence,



provided that in doing so, it satisfies the conditions mentioned therein. It is settled law that the power to quash the criminal proceedings under Section 482 of the Cr.P.C exists even in non-compoundable offence but its actual exercise will depend on the facts of a particular case. There are few tests relevant to decide whether to quash or not to quash the criminal proceedings i.e. (a) the nature and gravity of the case; (b) does the dispute reflect overwhelming and predominantly civil nature; (c) would the quashing involve settlement of entire or almost the entire dispute; (d) the compromise/settlement between parties and/or other facts and the circumstances render possibility of conviction remote and bleak; (e) not to quash would cause extreme injustice and would not serve the ends of justice; and (f) not to quash would result in abuse of process of court.

38. If the powers under Section 482 are exercised, in relation to non-compoundable offences, it will amount to what is prescribed by law and such cases cannot be brought within the parameters "to secure the ends of justice". Any order in violation and breach of the statutory provisions, would be a case against the ends of justice.

39. In the case of **CBI v. Keshub Mahindra, (2011) 6 SCC 216**, the Hon'ble Supreme Court held as under:

"11. No decision by any court, this Court not excluded, can be read in a manner as to nullify the express provisions of an Act or the Code and the 1996 judgment never intended to do so. In the 1996 judgment, this Court was at pains to make it absolutely clear that its findings were based on materials gathered in the investigation and brought before the Court till that stage. At every place in the judgment where the Court records the finding or makes an observation in regard to the



appropriate charge against the accused, it qualifies the finding or the observation by saying “on the materials produced by the prosecution for framing charge”. “At this stage”, is a kind of a constant refrain in that judgment. The 1996 judgment was rendered at the stage of Sections 209/228/240 of the Code and we are completely unable to see how the judgment can be read to say that it removed from the Code Sections 323, 216, 386, 397, 399, 401, etc. or denuded a competent court of the powers under those provisions. In our view, on the basis of the material on record, it is wrong to assume that the 1996 judgment is a fetter against the proper exercise of powers by a court of competent jurisdiction under the relevant provisions of the Code.”

40. In the case of ***State of Karnataka v. L. Muniswamy***, (1977) 2 SCC 699, the Hon'ble Supreme Court held as under:

“7. The second limb of Mr Mookerjee's argument is that in any event the High Court could not take upon itself the task of assessing or appreciating the weight of material on the record in order to find whether any charges could be legitimately framed against the respondents. So long as there is some material on the record to connect the accused with the crime, says the learned counsel, the case must go on and the High Court has no jurisdiction to put a precipitate or premature end to the proceedings on the belief that the prosecution is not likely to succeed. This, in our opinion, is too broad a proposition to accept. Section 227 of the Code of Criminal Procedure, 2 of 1974, provides that:

If, upon consideration of the record of the case and the documents submitted therewith, and after hearing the submissions of the accused and the prosecution in this behalf, the Judge considers that there is not sufficient ground for proceeding against the accused,



he shall discharge the accused and record his reasons for so doing.

This section is contained in Chapter 18 called “Trial Before a Court of Session”. It is clear from the provision that the Sessions Court has the power to discharge an accused if after perusing the record and hearing the parties he comes to the conclusion, for reasons to be recorded, that there is not sufficient ground for proceeding against the accused. The object of the provision which requires the Sessions Judge to record his reasons is to enable the superior court to examine the correctness of the reasons for which the Sessions Judge has held that there is or is not sufficient ground for proceeding against the accused. The High Court therefore is entitled to go into the reasons given by the Sessions Judge in support of his order and to determine for itself whether the order is justified by the facts and circumstances of the case. Section 482 of the New Code, which corresponds to Section 561-A of the Code of 1898, provides that:

Nothing in this Code shall be deemed to limit or affect the inherent powers of the High Court to make such orders as may be necessary to give effect to any order under this Code or to prevent abuse of the process of any Court or other wise to secure the ends of justice.

In the exercise of this wholesome power, the High Court is entitled to quash a proceeding if it comes to the conclusion that allowing the proceeding to continue would be an abuse of the process of the Court or that the ends of justice require that the proceeding ought to be quashed. The saving of the High Court's inherent powers, both in civil and criminal matters, is designed to achieve a salutary public purpose which is that a court proceeding ought not to be permitted to degenerate into a weapon of harassment or persecution. In a criminal case, the veiled object behind a lame prosecution, the very nature of the material on which the structure of the prosecution rests and the like would justify the High Court in quashing the proceeding in



the interest of justice. The ends of justice are higher than the ends of mere law though justice has got to be administered according to laws made by the legislature. The compelling necessity for making these observations is that without a proper realisation of the object and purpose of the provision which seeks to save the inherent powers of the High Court to do justice, between the State and its subjects, it would be impossible to appreciate the width and contours of that salient jurisdiction.”

41. In the case of **Ashok Sadarangani v. Union of India, (2012) 11 SCC 321**, the Hon'ble Supreme Court held as under:

“24. Having carefully considered the facts and circumstances of the case, as also the law relating to the continuance of criminal cases where the complainant and the accused had settled their differences and had arrived at an amicable arrangement, we see no reason to differ with the views that had been taken in Nikhil Merchant case [(2008) 9 SCC 677 : (2008) 3 SCC (Cri) 858] or Manoj Sharma case [(2008) 16 SCC 1 : (2010) 4 SCC (Cri) 145] or the several decisions that have come thereafter. It is, however, no coincidence that the golden thread which runs through all the decisions cited, indicates that continuance of a criminal proceeding after a compromise has been arrived at between the complainant and the accused, would amount to abuse of the process of court and an exercise in futility, since the trial could be prolonged and ultimately, may conclude in a decision which may be of any consequence to any of the other parties.

25. Even in Sushil Suri case [(2011) 5 SCC 708 : (2011) 2 SCC (Cri) 764] on which the learned Additional Solicitor General had relied, the learned Judges who decided the said case, took note of the decisions in various other cases, where it had been reiterated that the exercise of inherent powers would depend entirely on the facts and circumstances of each case. In other words, not that there is any restriction on the power or authority vested in the Supreme Court in exercising powers



under Article 142 of the Constitution, but that in exercising such powers the Court has to be circumspect, and has to exercise such power sparingly in the facts of each case.

26. Furthermore, the issue, which has been referred to a larger Bench in *Gian Singh* case [(2010) 15 SCC 118] in relation to the decisions of this Court in *B.S. Joshi* case [(2003) 4 SCC 675 : 2003 SCC (Cri) 848] , *Nikhil Merchant* case [(2008) 9 SCC 677 : (2008) 3 SCC (Cri) 858] , as also *Manoj Sharma* case [(2008) 16 SCC 1 : (2010) 4 SCC (Cri) 145] , deals with a situation which is different from that of the present case. While in the cases referred to hereinabove, the main question was whether the offences which were not compoundable, under Section 320 CrPC could be quashed under Section 482 CrPC, in *Gian Singh* case [(2010) 15 SCC 118] the Court was of the view that a non-compoundable offence could not be compounded and that the courts should not try to take over the function of Parliament or the executive. In fact, in none of the cases referred to in *Gian Singh* case [(2010) 15 SCC 118] , did this Court permit compounding of non-compoundable offences. On the other hand, upon taking various factors into consideration, including the futility of continuing with the criminal proceedings, this Court ultimately quashed the same.

27. In addition to the above, even with regard to *CBI v. A. Ravishankar Prasad* [(2009) 6 SCC 351 : (2009) 2 SCC (Cri) 1063] this Court observed that the High Court can exercise power under Section 482 CrPC to do real and substantial justice and to prevent abuse of the process of court when exceptional circumstances warranted the exercise of such power. Once the circumstances in a given case were held to be such as to attract the provisions of Article 142 or Articles 32 and 226 of the Constitution, it would be open to the Supreme Court to exercise its extraordinary powers under Article 142 of the Constitution to quash the proceedings, the continuance whereof would only amount to abuse of the process of court.



28. *In the instant case the dispute between the petitioners and the Banks having been compromised, we have to examine whether the continuance of the criminal proceeding could turn out to be an exercise in futility without anything positive being ultimately achieved.*

29. *As was indicated in Harbhajan Singh case [Harbhajan Singh v. State of Punjab, (2009) 13 SCC 608 : (2010) 1 SCC (Cri) 1135] , the pendency of a reference to a larger Bench, does not mean that all other proceedings involving the same issue would remain stayed till a decision was rendered in the reference. The reference made in Gian Singh case [(2010) 15 SCC 118] need not, therefore, detain us. Till such time as the decisions cited at the Bar are not modified or altered in any way, they continue to hold the field.*

30. *In the present case, the fact situation is different from that in Nikhil Merchant case [(2008) 9 SCC 677 : (2008) 3 SCC (Cri) 858] . While in Nikhil Merchant case [(2008) 9 SCC 677 : (2008) 3 SCC (Cri) 858] the accused had misrepresented the financial status of the company in question in order to avail of credit facilities to an extent to which the Company was not entitled, in the instant case, the allegation is that as part of a larger conspiracy, property acquired on lease from a person who had no title to the leased properties, was offered as collateral security for loans obtained. Apart from the above, the actual owner of the property has filed a criminal complaint against Shri Kersi V. Mehta who had held himself out as the attorney of the owner and his family members.*

31. *The ratio of the decisions in B.S. Joshi case [(2003) 4 SCC 675 : 2003 SCC (Cri) 848] and in Nikhil Merchant case [(2008) 9 SCC 677 : (2008) 3 SCC (Cri) 858] or for that matter, even in Manoj Sharma case [(2008) 16 SCC 1 : (2010) 4 SCC (Cri) 145] , does not help the case of the writ petitioners. In Nikhil Merchant case [(2008) 9 SCC 677 : (2008) 3 SCC (Cri) 858] , this Court had in the facts of the case observed that the dispute involved had overtures of a civil dispute with*



criminal facets. This is not so in the instant case where the emphasis is more on the criminal intent of the petitioners than on the civil aspect involving the dues of the Bank in respect of which a compromise was worked out."

42. In the case of **Gian Singh v. State of Punjab, (2012) 10 SCC 303**, the Hon'ble Supreme Court held as under:

"52. The question is with regard to the inherent power of the High Court in quashing the criminal proceedings against an offender who has settled his dispute with the victim of the crime but the crime in which he is allegedly involved is not compoundable under Section 320 of the Code.

53. Section 482 of the Code, as its very language suggests, saves the inherent power of the High Court which it has by virtue of it being a superior court to prevent abuse of the process of any court or otherwise to secure the ends of justice. It begins with the words, "nothing in this Code" which means that the provision is an overriding provision. These words leave no manner of doubt that none of the provisions of the Code limits or restricts the inherent power. The guideline for exercise of such power is provided in Section 482 itself i.e. to prevent abuse of the process of any court or otherwise to secure the ends of justice. As has been repeatedly stated that Section 482 confers no new powers on the High Court; it merely safeguards existing inherent powers possessed by the High Court necessary to prevent abuse of the process of any court or to secure the ends of justice. It is equally well settled that the power is not to be resorted to if there is specific provision in the Code for the redress of the grievance of an aggrieved party. It should be exercised very sparingly and it should not be exercised as against the express bar of law engrafted in any other provision of the Code.

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.*

61. *The position that emerges from the above discussion can be summarised 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 predominately civil flavour stand on a different footing for the purposes of quashing, particularly the offences arising from commercial, financial, mercantile, civil, partnership or such like transactions or the offences arising out of matrimony relating to dowry, etc. or the family disputes where the wrong is basically private or personal in nature and the parties have resolved their entire dispute. In this category of cases, the High Court may quash the criminal proceedings if in its view, because of the compromise between the offender and the victim, the possibility of conviction is remote and bleak and continuation of the criminal case would put the accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case despite full and complete settlement and compromise with the victim. In other words, the High Court must consider whether it would be unfair or contrary to the interest of justice to continue with the criminal proceeding or continuation of the criminal proceeding would tantamount to abuse of process of law despite settlement and compromise between the victim and the wrongdoer and whether to secure the ends of justice, it is



appropriate that the criminal case is put to an end and if the answer to the above question(s) is in the affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding.”

43. In the present case, it is an admitted fact that at the time of filing of the instant petition for quashing the FIR; the charge-sheet was not filed but during the pendency of the instant petition; the Police have investigated the entire matter and filed the charge-sheet against the accused persons before the competent Court on 23rd April, 2013 and that is not under challenge before this Court. If the Police have filed the charge-sheet after completing the investigation against the accused persons/petitioners and the competent Court after perusing the materials collected by the Police, has taken the cognizance and the same is not under challenge in the instant petition. In such circumstances, the issue before this Court remains, whether the impugned FIR can be quashed or not by this Court while exercising the inherent power under Section 482 of the Cr.P.C.

44. While investigating the case, the Investigating Officer recorded the statements of the witnesses, the statement of the complainant and collected the all material evidence. After getting the evidences/materials against an accused person, the investigating agency preferred to file a charge-sheet against the said accused person before the competent Court. The investigating officer investigated the matter and filed the chargesheet against the accused person long back after collecting incriminating material against the accused person, which is not under challenge before this Court. In such circumstances, this Court cannot adjudicate or appreciate the material which has been collected by the Investigating Agency during the



course of investigation for the purpose of quashing the chargesheet or the FIR.

45. The instant petition under Section 482 of the Cr.P.C was filed at the stage of FIR, therefore, only the allegations in the FIR/complaint are required to be considered and other grounds which have been vehemently argued by the petitioners cannot be adjudicated by this Court in present proceedings. The main argument of the learned counsel for the petitioners is that the parties have entered into the compromise, therefore, the instant petition is liable to be quashed on the basis of the said compromise. However, the said compromise is disputed by the respondents herein and vehemently opposed the instant petition.

46. In view of the foregoing discussions, it is clear that the offences in question are non-compoundable and the allegations have been investigated by the investigating agency. The charge-sheet has thereafter been presented and the learned Sessions Judge has taken cognizance of the same. As such, the fact that the complainant had earlier entered into a compromise agreement would not stand in the way of examining the allegations against the accused at trial because the complainant has subsequently disavowed the settlement agreement, alleging duress and coercion. These are statutorily recognised as exceptions to a binding agreement under the Indian Contract Act, 1872. Undoubtedly, the veracity of the complainant's allegations of coercion and duress would also have to be tested in any other appropriate proceedings. Be that as it may, once the complainant has claimed that the settlement agreement is not valid in law, this Court cannot



prevent the prosecution from making its case against the accused at trial and the judicial precedents to support this conclusion.

47. In case of **Ramgopal & Anr. v. State of Madhya Pradesh, 2021 SCC OnLine SC 834**, the Hon'ble Supreme Court has recently held as follows:

“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.

20. Having appraised the afore-stated para-meters 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 ill-will and have no vengeance against each other; and

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

(emphasis supplied)

48. Similarly, in case of ***State of M.P. v. Laxmi Narayan, (2019) 5 SCC 688***, the Hon'ble Supreme Court had held 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;

15.5 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.”

49. It is therefore clear that, this Court should exercise its extra-ordinary powers under section 482 of the Cr.P.C only when it is satisfied that the settlement agreement or the compromise between the victim and the offender has been freely and voluntarily executed or reached. In the present facts and circumstances, that is not so because the complainant has assailed the very legality of that agreement or compromise.



CONCLUSION

50. Perusal of several judgments on quashing of FIR, shows that constitutional courts ordinarily exercise powers under section 482 of the Cr.P.C after considering the fact that there is no objection by the victim to such exercise of power. Moreover, it is not as if the allegations made by the complainant are purely civil in nature, having been investigated into and taken cognizance by the learned Sessions Judge. In the peculiar facts and circumstance of instant case, it would be perilous for this Court to rely upon the agreement or compromise to justify quashing the FIR in question, particularly when the complainant is contesting the merits of the instant petition under section 482 of the Cr.P.C.

51. In view of the above facts and circumstances and foregoing discussions, this Court does not find any merit in the instant petition for exercising its extraordinary jurisdiction for the purpose of quashing the instant FIR as prayed for.

52. Accordingly, the instant petition is dismissed along with pending applications, if any.

53. The judgment be uploaded on the website forthwith.

(CHANDRA DHARI SINGH)
JUDGE

JUNE 13, 2022
gs/ct