**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

CRM-M No.35590 of 2020
Reserved on: 16.01.2023
Pronounced on: 02.02.2023

Karanpartap Singh @ Karan .....Petitioner

Vs.

State of Punjab and another .....Respondents

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Ritesh Pandey, Advocate,
for the petitioner.

Mr. Harsimar Singh Sitta, DAG, Punjab.

Mr. Manoj Kumar Sharma, Advocate,
for respondent No.2.

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ANOOP CHITKARA J.

FIR No.	Dated	Police Station	Sections
130	06.12.2019	Shri Hargobindpur, Tehsil Batala, District Batala	307, 34 IPC and Section 25 of Arms Act

The petitioner, arraigned as accused in the above captioned FIR, has come up before this Court under Section 482 CrPC for quashing of the FIR and all consequential proceedings based on a compromise with the aggrieved person.

2. During the pendency of the petition, the accused and the aggrieved person have compromised the matter, and its copy is annexed with this petition as Annexure P-2.

3. After that, the petitioner came up before this Court to quash the FIR, and in the quashing petition, the aggrieved person has been impleaded as respondent.

4. On 17.05.2022, the aggrieved person Mukhtiar Singh (R-2) appeared before the JMIC, Batala that there would be no objection if the court quashes this FIR and consequent proceedings. As per the concerned court's report dated 07.07.2022, the parties consented to the quashing of FIR and consequent proceedings without any threat or coercion.

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ANALYSIS & REASONING:

5. The State's counsel has severely opposed this compromise and seeks dismissal of the petition because of the heinous nature of the offence.

6. In the present case, the offences under section 307 of Indian Penal Code, 1860 (IPC) is not compoundable under Section 320 of Code of Criminal Procedure, 1973 (CrPC). However, in the facts and circumstances peculiar to this case, the prosecution qua the non-compoundable offences can be closed by quashing the FIR and consequent proceedings.

7. It shall be appropriate to refer to the relevant portions of compromise deed, as per which the reason for compromise given by the victim is that due to fog, he could not identify the assailant and on suspicion named the petitioner. Thus, the initial implication has been admitted by the victim not as an eye-witness account but based on assumptions and suspicion.

8. The injured and all the accused had appeared before the Court of JMIC, Batala and had stated that they had entered into a compromise. When the parties have buried their hatchets, and the foundation of implication stands shattered by the complainant himself, the continuation of criminal proceedings will not advance the reformative purposes of jurisprudence just for the sake of deterrence.

9. The following aspects would be relevant to conclude this petition: -

a) The accused and the private respondent(s) have amicably settled the matter between them in terms of the compromise deed and the statements recorded before the concerned Court;

b) A perusal of the documents reveal that the settlement has not been secured through coercion, threats, social boycotts, bribes, or other dubious means;

c) The victim has willingly consented to the nullification of criminal proceedings;

d) There is no objection from the private respondents in case present FIR and consequent proceedings are quashed;

e) In the given facts, the occurrence does not affect public peace or tranquillity, moral turpitude or harm the social and moral fabric of the society or involve matters concerning public policy;

f) The rejection of compromise may also lead to ill will. The pendency of trial affects career and happiness;

g) There is nothing on the record to prima facie consider the accused as an unscrupulous, incorrigible, or professional offender;

h) The purpose of criminal jurisprudence is reformatory in nature and to work to

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bring peace to family, community, and society;

i) The exercise of the inherent power for quashing the conviction, sentence and all previous proceedings is justified to secure the ends of justice.

JUDICIAL PRECEDENTS ON QUASHING UNDER SECTION 307 IPC:

10. In Ram Prasad v State of Uttar Pradesh, (1982) 2 SCC 149, Supreme Court holds,

> The appellants, who are the accused and the complainant, Shri Ram, who was the person injured as a result of firing, have appeared before us and stated that they wish to compound the offence. The offence for which both the appellants have been convicted is one under Section 307 read with Section 34 of the Indian Penal Code, but having regard to the nature of the injury sustained by Shri Ram, we think that the proper offence for which the appellants should have been convicted was under Section 324 read with Section 34. Shri Ram received only one injury on the shoulder and that was also in the nature of simple hurt. We would, therefore, convert the conviction of the appellants to one under Section 324 read with Section 34. Since the parties belong to the same village and desire to compound the offence, we think, in the larger interest of peace and harmony between the parties and having regard to the nature of the injury, that it would be proper to allow the parties to compound the offence.

11. In Mahesh Chand v State of Rajasthan, 1990 SCC 781, Hon'ble Supreme Court holds as under:

> [2]. The accused were acquitted by the trial court, but they were convicted by the High Court for the offence under section 307 Indian Penal Code This offence is not compoundable under law. The parties, however. want to treat it a special case, in view of the peculiar circumstances of the case. It is said and indeed not disputed that one of the accused is a lawyer practising in the lower court. There was a counter case arising out of the same transaction. It is said that this case has already been compromised. The decision of this Court in Suresh Babu v. State of Andhra Pradesh, 1987(2) JT 361, has been also referred to in support of the plea for permission to compound the offence.

12. In Dimpey Gujraj v Union Territory, (2013) 11 SCC 497, Supreme Court holds,

> [5]. In light of the above observations of this court in Gian Singh v. State of Punjab and another, 2012(4) R.C.R.(Criminal) 543 : 2012(4) Recent Apex Judgments (R.A.J.) 549 : 2012(5) CTC 526 (SC) we feel that this is a case where the continuation of criminal proceedings would tantamount to abuse of process of law because the alleged offences are not heinous offences showing extreme depravity nor are they against the society. They are offences of a personal nature and burying them would bring about peace and amity between the two sides. In the circumstances of the case, FIR No. 163 dated 26/10/2006 registered under Section 147, 148, 149, 323, 307, 452 and 506 of the Indian Penal Code at Police Station Sector 3, Chandigarh and all consequential proceedings arising therefrom including the final report presented under Section 173 of the Code and charges framed by the trial court are hereby quashed.

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13. In Narinder Singh v. State of Punjab, 2014 (6) SCC 466, a two-member bench of Hon'ble Supreme Court holds,

> [24]. Thus, we find that in certain circumstances, this Court has approved the quashing of proceedings under section 307, IPC whereas in some other cases, it is held that as the offence is of serious nature such proceedings cannot be quashed. Though in each of the aforesaid cases the view taken by this Court may be justified on its own facts, at the same time this Court owes an explanation as to why two different approaches are adopted in various cases. The law declared by this Court in the form of judgments becomes binding precedent for the High Courts and the subordinate courts, to follow under Article 141 of the Constitution of India. Stare Decisis is the fundamental principle of judicial decision making which requires `certainty' too in law so that in a given set of facts the course of action which law shall take is discernable and predictable. Unless that is achieved, the very doctrine of stare decisis will lose its significance. The related objective of the doctrine of stare decisis is to put a curb on the personal preferences and priors of individual Judges. In a way, it achieves equality of treatment as well, inasmuch as two different persons faced with similar circumstances would be given identical treatment at the hands of law. It has, therefore, support from the human sense of justice as well. The force of precedent in the law is heightened, in the words of Karl Llewellyn, by "that curious, almost universal sense of justice which urges that all men are to be treated alike in like circumstances".
>
> [25]. As there is a close relation between the equality and justice, it should be clearly discernible as to how the two prosecutions under Section 307 IPC are different in nature and therefore are given different treatment. With this ideal objective in mind, we are proceeding to discuss the subject at length. It is for this reason we deem it appropriate to lay down some distinct, definite and clear guidelines which can be kept in mind by the High Courts to take a view as to under what circumstances it should accept the settlement between the parties and quash the proceedings and under what circumstances it should refrain from doing so. We make it clear that though there would be a general discussion in this behalf as well, the matter is examined in the context of offences under Section 307 IPC.
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> [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

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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 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

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> 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.

14. In State of Rajasthan v. Shambhu Kewat, (2014) 4 SCC 149, Hon'ble Supreme Court holds,

> [14] We notice that the gravity of the injuries was taken note of by the Sessions Court and it had awarded the sentence of 10 years rigorous imprisonment for the offence punishable under Section 307 IPC, but not by the High Court. The High Court has completely overlooked the various principles laid down by this Court in Gian Singh , and has committed a mistake in taking the view that, the injuries were caused on the body of Abdul Rashid in a fight occurred at the spur and the heat of the moment. It has been categorically held by this Court in Gian Singh that the Court, while exercising the power under Section 482, must have "due regard to the nature and gravity of the crime" and "the societal impact". Both these aspects were completely overlooked by the High Court. The High Court in a cursory manner, without application of mind, blindly accepted the statement of the parties that they had settled their disputes and differences and took the view that it was a crime against "an individual", rather than against "the society at large".
> [15] We are not prepared to say that the crime alleged to have been committed by the accused persons was a crime against an individual, on the other hand it was a crime against the society at large. Criminal

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law is designed as a mechanism for achieving social control and its purpose is the regulation of conduct and activities within the society. Why Section 307 IPC is held to be non-compoundable, because the Code has identified which conduct should be brought within the ambit of non-compoundable offences.

Such provisions are not meant, just to protect the individual, but the society as a whole. High Court was not right in thinking that it was only an injury to the person and since the accused persons had received the monetary compensation and settled the matter, the crime as against them was wiped off. Criminal justice system has a larger objective to achieve, that is safety and protection of the people at large and it would be a lesson not only to the offender, but to the individuals at large so that such crimes would not be committed by any one and money would not be a substitute for the crime committed against the society. Taking a lenient view on a serious offence like the present, will leave a wrong impression about the criminal justice system and will encourage further criminal acts, which will endanger the peaceful co-existence and welfare of the society at large.

[16] We are, therefore, inclined to allow this appeal and set aside the judgment of the High Court. The High Court was carried away by the settlement and has not examined the matter on merits, hence, we are inclined to direct the High Court to take back the appeal to its file and decide the appeal on merits.

15. In Yogendra Yadav v State of Jharkhand, 21.7.2014, Supreme Court holds,

[4]. Now, the question before this Court is whether this Court can compound the offences under Sections 326 and 307 of the IPC which are non-compoundable. Needless to say that offences which are non-compoundable cannot be compounded by the court. Courts draw the power of compounding offences from Section 320 of the Code. The said provision has to be strictly followed (Gian Singh v. State of Punjab, 2012(4) R.C.R.(Criminal) 543 : 2012(4) Recent Apex Judgments (R.A.J.) 549 : (2012)10 SCC 303). However, in a given case, the High Court can quash a criminal proceeding in exercise of its power under section 482 of the Code having regard to the fact that the parties have amicably settled their disputes and the victim has no objection, even though the offences are non-compoundable. In which cases the High Court can exercise its discretion to quash the proceedings will depend on facts and circumstances of each case. Offences which involve moral turpitude, grave offences like rape, murder etc. cannot be effaced by quashing the proceedings because that will have harmful effect on the society. Such offences cannot be said to be restricted to two individuals or two groups. If such offences are quashed, it may send wrong signal to the society. However, when the High Court is convinced that the offences are entirely personal in nature and, therefore, do not affect public peace or tranquillity and where it feels that quashing of such proceedings on account of compromise would bring about peace and would secure ends of justice, it should not hesitate to quash them. In such cases, the prosecution becomes a lame prosecution. Pursuing such a lame prosecution would be waste of time and energy. That will also unsettle the compromise and obstruct restoration of peace.

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16. In Kailash Chand v. State of Rajasthan, 2018(4) R.C.R (Criminal) 292, Hon'ble Supreme Court holds,

> [7]. Upon perusal of the record, it appears that the incident has occurred almost 30 years ago. Since the complainant/s and the appellant-accused belong to the same family and are living in the same house, they have buried their animosity and settled their disputes amicably in writing under an agreement letter dated 28.07.2017, copy of which is already placed on the file. The injured victims are brother and sister-in-law of the appellant. It is also stated in the aforesaid application for compromise/compounding of offence that there is no untoward incident has ever taken place after the date of incident.
>
> [8]. Though the offences under sections 307 and 326 of the IPC are non-compoundable, having regard to the fact that the incident in the present case did not have an impact on the society in general, and having regard to the fact that the dispute between the parties has been settled amicably and there is no likelihood of the repetition of such incident, we allow the application for compromise/compounding of offence and set aside the orders of conviction and sentence passed by the courts below against the appellant by exercising our jurisdiction under Article 142 of the Constitution of India. The appellant is ordered to be acquitted of the charges levelled against him. Since the appellant is confined in jail, he is ordered to be released from custody forthwith if not required in any other case.

17. In State of Madhya Pradesh v. Dhruv Gurjar, (2019) 5 SCC 570, the FIR was registered under S 307, 294 and 34 IPC based on the allegations that Dhruv Gurjar (accused) armed with a 12-bore gun, and his gang, visited the house of the complainant with a view to take revenge with his nephew. When the complainant told them that his nephew was not present at home, on this Dhruv Gurjar fired, and the pellets struck on his forehead, left shoulder and left ear. Disagreeing with the order of High Court quashing the FIR, Hon'ble Supreme Court held,

> [16.1] However, the High Court has not at all considered the fact that the offences alleged were non-compoundable offences as per Section 320 of the Cr.P.C. From the impugned judgments and orders, it appears that the High Court has not at all considered the relevant facts and circumstances of the case, more particularly the seriousness of the offences and its social impact. From the impugned judgments and orders passed by the High Court, it appears that the High Court has mechanically quashed the respective FIRs, in exercise of its powers under Section 482 Cr.P.C. The High Court has not at all considered the distinction between a personal or private wrong and a social wrong and the social impact. As observed by this Court in the case of State of Maharashtra vs. Vikram Anantrai Doshi, 2014 15 SCC 29, the Court's principal duty, while exercising the powers under Section 482 Cr.P.C. to quash the criminal proceedings, should be to scan the entire facts to find out the thrust of the allegations and the crux of the settlement. As observed, it is the experience of the Judge that comes to his aid and the said experience should be used with care, caution, circumspection and courageous prudence.

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18. In Shiji @ Pappu v. Radhika, (2011) 10 SCC 705, Hon'ble Supreme Court holds,

> [13]. It is manifest that simply because an offence is not compoundable under Section 320 Indian Penal Code is by itself no reason for the High Court to refuse exercise of its power under Section 482 Criminal Procedure Code That power can in our opinion be exercised in cases where there is no chance of recording a conviction against the accused and the entire exercise of a trial is destined to be an exercise in futility. There is a subtle distinction between compounding of offences by the parties before the trial Court or in appeal on one hand and the exercise of power by the High Court to quash the prosecution under Section 482 Criminal Procedure Code on the other. While a Court trying an accused or hearing an appeal against conviction, may not be competent to permit compounding of an offence based on a settlement arrived at between the parties in cases where the offences are not compoundable under Section 320, the High Court may quash the prosecution even in cases where the offences with which the accused stand charged are non-compoundable. The inherent powers of the High Court under Section 482 Criminal Procedure Code are not for that purpose controlled by Section 320 Criminal Procedure Code Having said so, we must hasten to add that the plenitude of the power under Section 482 Criminal Procedure Code by itself, makes it obligatory for the High Court to exercise the same with utmost care and caution. The width and the nature of the power itself demands that its exercise is sparing and only in cases where the High Court is, for reasons to be recorded, of the clear view that continuance of the prosecution would be nothing but an abuse of the process of law. It is neither necessary nor proper for us to enumerate the situations in which the exercise of power under Section 482 may be justified. All that we need to say is that the exercise of power must be for securing the ends of justice and only in cases where refusal to exercise that power may result in the abuse of the process of law. The High court may be justified in declining interference if it is called upon to appreciate evidence for it cannot assume the role of an appellate court while dealing with a petition under Section 482 of the Criminal Procedure Code. Subject to the above, the High Court will have to consider the facts and circumstances of each case to determine whether it is a fit case in which the inherent powers may be invoked.

19. In State of M.P. v. Rajveer Singh, 2016(3) R.C.R.(Criminal) 176, Hon'ble Supreme Court holds,

> [7]. Considering allegations and counter-allegations, it was not such a case which could have been compromised by the complainant and the accused and FIR could not have been quashed in such a serious case as that would be against public policy and administration of criminal justice system. The FIR discloses commission of cognisable offence under Section 307/34 IPC. Considering the nature of allegation, it is necessary to investigate further in the facts and circumstances of the instant case.

20. In Parbatbhai Aahir v State of Gujarat, *(2017) 9 SCC 641*, a three Judges Bench of Hon'ble Supreme Court, laid down the broad principles for quashing of FIR, which are

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reproduced as follows: -

> [16]. The broad principles which emerge from the precedents on the subject, may be summarized in the following propositions:
> 16 (i) Section 482 preserves the inherent powers of the High Court to prevent an abuse of the process of any court or to secure the ends of justice. The provision does not confer new powers. It only recognises and preserves powers which inhere in the High Court;
> 16 (ii) The invocation of the jurisdiction of the High Court to quash a First Information Report or a criminal proceeding on the ground that a settlement has been arrived at between the offender and the victim is not the same as the invocation of jurisdiction for the purpose of compounding an offence. While compounding an offence, the power of the court is governed by the provisions of section 320 of the Code of Criminal Procedure, 1973. The power to quash under Section 482 is attracted even if the offence is non-compoundable.
> 16 (iii) In forming an opinion whether a criminal proceeding or complaint should be quashed in exercise of its jurisdiction under Section 482, the High Court must evaluate whether the ends of justice would justify the exercise of the inherent power;
> 16 (iv) While the inherent power of the High Court has a wide ambit and plenitude it has to be exercised; (i) to secure the ends of justice or (ii) to prevent an abuse of the process of any court;
> 16 (v) The decision as to whether a complaint or First Information Report should be quashed on the ground that the offender and victim have settled the dispute, revolves ultimately on the facts and circumstances of each case and no exhaustive elaboration of principles can be formulated;
> 16 (vi) In the exercise of the power under Section 482 and while dealing with a plea that the dispute has been settled, the High Court must have due regard to the nature and gravity of the offence. Heinous and serious offences involving mental depravity or offences such as murder, rape and dacoity cannot appropriately be quashed though the victim or the family of the victim have settled the dispute. Such offences are, truly speaking, not private in nature but have a serious impact upon society. The decision to continue with the trial in such cases is founded on the overriding element of public interest in punishing persons for serious offences;
> 16 (vii) As distinguished from serious offences, there may be criminal cases which have an overwhelming or predominant element of a civil dispute. They stand on a distinct footing in so far as the exercise of the inherent power to quash is concerned;
> 16 (viii) Criminal cases involving offences which arise from commercial, financial, mercantile, partnership or similar transactions with an essentially civil flavour may in appropriate situations fall for quashing where parties have settled the dispute;
> 16 (ix) In such a case, the High Court may quash the criminal proceeding if in view of the compromise between the disputants, the possibility of a conviction is remote and the continuation of a criminal proceeding would cause oppression and prejudice; and
> 16 (x) There is yet an exception to the principle set out in propositions (viii) and (ix) above. Economic offences involving the financial and economic well-being of the state have implications which lie beyond the domain of a mere dispute between private disputants. The High Court would be justified in declining to quash where the offender is involved in an activity akin to a financial or

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

21. In The state of Madhya Pradesh v. Kalyan Singh, 2019 (4) SCC 268, Hon'ble Supreme Court holds,

> [3.1] It is required to be noted that the original Accused was facing the criminal proceedings under Sections 307, 294 read with Section 34 of the IPC. It is not in dispute that as per Section 20 of the Cr.PC offences under Sections 307, 294 read with Section 34 of the IPC are non-compoundable. It is also required to be noted that the allegations in the complaint for the offences under Sections 307, 294 read with Section 34 of the IPC are, as such, very serious. It is alleged that the accused fired twice on the complainant by a country-made pistol. From the material on record, it appears that one of the accused persons was reported to be a hardcore criminal having criminal antecedents. Be that as it may, 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. At this stage, the decision of this Court in the case of Gulab Das and Ors. V. State of M. P., 2011 12 Scale 625 is required to be referred to. 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. Under the circumstance, the impugned judgment and order passed by the High Court quashing the criminal proceedings against the original Accused for the offences under Sections 307, 294 read with Section 34 of the IPC cannot be sustained and the same deserves to be quashed and set aside.
>
> [4] In view of the above and for the reasons stated above, the present appeal is allowed. The impugned judgment and order passed by the High Court in Miscellaneous Criminal Case No. 6075 of 2013 is hereby quashed and set aside.

22. In The State of Madhya Pradesh v. Laxmi Narayan & others, 2019 (5) SCC 688, a two-member bench of Hon'ble Supreme Court holds,

> [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

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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 impart 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

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Court has also failed to note the antecedents of the accused.

23. In Ramgopal v. The State of Madhya Pradesh, *Cr.A 1489 of 2012*, decided on 29.09.2021, Hon'ble Supreme Court holds,

> [11]. True it is that offences which are 'non-compoundable' cannot be compounded by a criminal court in purported exercise of its powers under Section 320 Cr.P.C. Any such attempt by the court would amount to alteration, addition and modification of Section 320 Cr.P.C, which is the exclusive domain of Legislature. There is no patent or latent ambiguity in the language of Section 320 Cr.P.C., which may justify its wider interpretation and include such offences in the docket of 'compoundable' offences which have been consciously kept out as non-compoundable. Nevertheless, the limited jurisdiction to compound an offence within the framework of Section 320 Cr.P.C. is not an embargo against invoking inherent powers by the High Court vested in it under Section 482 Cr.P.C. The High Court, keeping in view the peculiar facts and circumstances of a case and for justifiable reasons can press Section 482 Cr.P.C. in aid to prevent abuse of the process of any Court and/or to secure the ends of justice.
>
> [12]. The High Court, therefore, having regard to the nature of the offence and the fact that parties have amicably settled their dispute and the victim has willingly consented to the nullification of criminal proceedings, can quash such proceedings in exercise of its inherent powers under Section 482 Cr.P.C., even if the offences are non-compoundable. The High Court can indubitably evaluate the consequential effects of the offence beyond the body of an individual and thereafter adopt a pragmatic approach, to ensure that the felony, even if goes unpunished, does not tinker with or paralyze the very object of the administration of criminal justice system.
>
> [13]. It appears to us those criminal proceedings involving non-heinous offences or where the offences are predominantly of a private nature, can be annulled irrespective of the fact that trial has already been concluded or appeal stands dismissed against conviction. Handing out punishment is not the sole form of delivering justice. Societal method of applying laws evenly is always subject to lawful exceptions. It goes without saying, that the cases where compromise is struck post conviction, the High Court ought to exercise such discretion with rectitude, keeping in view the circumstances surrounding the incident, the fashion in which the compromise has been arrived at, and with due regard to the nature and seriousness of the offence, besides the conduct of the accused, before and after the incidence. The touchstone for exercising the extraordinary power under Section 482 Cr.P.C. would be to secure the ends of justice. There can be no hard and fast line constricting the power of the High Court to do substantial justice. A restrictive construction of inherent powers under Section 482 Cr.P.C. may lead to rigid or specious justice, which in the given facts and circumstances of a case, may rather lead to grave injustice. On the other hand, in cases where heinous offences have been proved against perpetrators, no such benefit ought to be extended, as cautiously observed by this Court in *Narinder Singh &Ors. vs. State of Punjab &Ors. [(2014) 6 SCC 466, ¶ 29], and Laxmi Narayan [(2019) 5 SCC 688, ¶ 15]*.
>
> [14]. In other words, grave or serious offences or offences which involve moral turpitude or have a harmful effect on the social and moral fabric of the society or involve matters concerning public

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> policy, cannot be construed between two individuals or groups only, for such offences have the potential to impact the society at large. Effacing abominable offences through quashing process would not only send a wrong signal to the community but may also accord an undue benefit to unscrupulous habitual or professional offenders, who can secure a 'settlement' through duress, threats, social boycotts, bribes or other dubious means. It is well said that "let no guilty man escape, if it can be avoided."

24. In Shakuntala Sawhney v Kaushalya Sawhney, *(1979) 3 SCR 639*, at P 642, Hon'ble Supreme Court observed that the finest hour of Justice arises propitiously when parties, who fell apart, bury the hatchet and weave a sense of fellowship or reunion.

25. In the light of the judicial precedents referred to above, given the terms of compromise, placement of parties, and other factors peculiar to the case, the contents of the compromise deed and its objectives point towards its acceptance.

26. In Himachal Pradesh Cricket Association v State of Himachal Pradesh, *2018 (4) Crimes 324*, Hon'ble Supreme Court holds

> "[47]. As far as Writ Petition (Criminal) No. 135 of 2017 is concerned, the appellants came to this Court challenging the order of cognizance only because of the reason that matter was already pending as the appellants had filed the Special Leave Petitions against the order of the High Court rejecting their petition for quashing of the FIR/Chargesheet. Having regard to these peculiar facts, writ petition has also been entertained. In any case, once we hold that FIR needs to be quashed, order of cognizance would automatically stands vitiated."

27. Considering the entire facts, compromise, and in the light of the above-mentioned judicial precedents, I believe that continuing these proceedings will not suffice any fruitful purpose whatsoever.

28. Given the nature of allegations and the other circumstances peculiar to this case, the petitioner/accused shall surrender all weapons, firearms, ammunition, if any, and the arms license to the concerned authority within thirty days from today and inform the concerned SHO about the compliance, however, if the police chief of the concerned district, (S.P./S.S.P/Commissioner), gives written permission by passing a reasoned order to arrive at such a decision to retain the firearms and license and in that case, this condition shall not be applicable. If the petitioner does not have such licence, then no such permission should be granted to acquire firearms and ammunition. However, if the police chief of the concerned district (S.P./S.S.P/Commissioner) gives written permission through a reasoned order for grant of the firearms and license, then this condition shall not be applicable.

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29. In the facts and circumstances peculiar to this case, the Court invokes the inherent jurisdiction under section 482 CrPC and quashes the FIR and all subsequent proceedings qua the petitioner(s). The bail bonds of the petitioner are accordingly discharged. All pending application(s), if any, stand closed.

Petition allowed in the terms mentioned above.

(ANOOP CHITKARA)
JUDGE

02.02.2023
Jyoti-II

Whether speaking/reasoned: Yes
Whether reportable: **No**.

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