

IN THE HIGH COURT AT CALCUTTA

Criminal Revisional Jurisdiction

APPELLATE SIDE

Present:

The Hon'ble Justice Shampa Dutt (Paul)

CRR 1571 of 2023

Moly Das @ Moli Das

Vs.

The State of West Bengal & Anr.

With

CRR 2011 of 2022

Koushik Das @ Rajdeep Das

Vs

The State of West Bengal & Anr.

For the Petitioner : Mr. Amarendra Chakraborty.

For the State : Ms. Madhusudan Sur,
Mr. Manoranjan Jana.

For the Opposite Party No. 2 : Mr. Bidhan Chandra Roy. (in person)

Hearing concluded on : 28.11.2024

Judgment on : 17.12.2024

Shampa Dutt (Paul), J.:

1. The present revisional application has been preferred praying for quashing of Case No. G.R. 2443 of 2017 arising out of Duttapukur Police Station Case No.660/17 dated 06.08.2017 under Sections 384/468/471/419/420/120B/170 of IPC including charge sheet No.882/21 dated 01.10.2021 under Sections 417/419/420/468/471/120B of IPC pending in the Court of the learned Chief Judicial Magistrate, North 24 Parganas at Barasat.
2. The proceeding in the present case was initiated on the complaint of the defacto complainant wherein it is stated as follows :-

“.....That due to some matrimonial dispute of Piu Singha Roy, daughter of complainant namely Bidhan Chandra Roy, S/o Lt. NityaGopal Roy of Star Plaza, 4th floor, flat number D-2, M.S. Mukherjee Road, P.O-B.D. Sopan, P.S Khardaha, North 24 Parganas, PIN-700116, he visited Khardah PS on January, 2017. Then SI Sudhin Jha of Khardah PS referred him to one Koushik Das describing him as an eminent advocate of Kolkata High Court and Supreme Court. The complainant met him at his chamber and Koushik Das introduced himself as a PP of Hon’ble High Court, Kolkata. At the chamber of Koushik Das @ Rajdeep Das @ Tapas, the complainant met with the other FIR named accused persons viz. Samik Das @ Manu, Soumendra Das @ Bappa, Pankaj Das, Debmala Haldar @ Deepa and Moli Das. To settle the dispute, on various false pretext accused Rajdeep Das and his associates grabbed a total amount of Rs.62,00,000/- from the complainant in several occasion by means of cash and bearer cheque. Finally the complainant realized that he was being cheated by

Rajdeep Das and his associates and moved for taking lawful action against them.....”

3. The petitioner has filed his written note of argument along with the following judgments relied upon:-

- i) Paramjeet Batra vs State of Uttarakhand and Ors., (2013) 11 SCC 673.*
- ii) Randheer Singh vs The State of U.P. & Ors., Criminal Appeal No. 932 of 2021 with Criminal Appeal No. 933 of 2021, decided on September 02, 2021.*
- iii) Indian Oil Corpn. Vs NEPC India Ltd. & Ors., (2006) 6 SCC 736.*
- iv) Satishchandra Ratanlal Shah vs State of Gujarat and Anr., (2019) 9 SCC 148.*
- v) Hridaya Ranjan Prasad Verma & Ors. vs State of Bihar & Anr., (2000) 4 SCC 168.*
- vi) State of Haryana & Ors. vs Bhajanlal & Ors., 1992 Supp (1) SCC 335.*
- vii) Sudin Jha @ Sudhin Jha vs The State of West Bengal & Anr., in CRR 452, 2023, Calcutta High Court.*

4. Learned counsel for the petitioner has also relied upon a judgment of a Co-ordinate Bench of this Court passed in CRR 452 of 2023 wherein the Court was pleased to quash the proceeding in respect of Sudin Jha @ Sudhin Jha (police officer) against whom the allegation was, that he introduced the defacto complainant to the petitioner in the present case.

5. The court gave benefit of doubt to the petitioner therein Sudhin Jha, that he did not have knowledge that the present petitioners are involved in committing cheating by personation and as such finding no prima facie case quashed the proceeding against said Sudhin Jha.
6. It is submitted by the learned counsel for the petitioner that there is also no evidence in respect of the present petitioner in respect of the offences alleged.
7. **On perusal of the case diary in the present case, in which the investigation was conducted by the CID, West Bengal, it appears that Charge sheet has been submitted, wherefrom it appears that several seizure lists are on record which show that visiting cards and other incriminating materials have been seized, which show that impersonation by the petitioner is prima facie on record.**
8. **There are also documents on record to show that the petitioner was paid in cash and cheques by the defacto complainant, against which receipt were issued. The services offered to the defacto complainant were by impersonation as advocates.**
9. On the complaint of the petitioner the present case was initiated on 6.08.2017. Subsequently the defacto complainant on being advised also initiated a civil suit praying for recovery of the money.
10. In ***M/s. Indian Oil Corporation vs. M/S Neps India Ltd. & Ors., Appeal (crl.) 834 of 2002 decided on 20.07.2006***, the Court considered the following point among the two points decided.

“8. The High Court by common judgment dated 23.3.2001 allowed both the petitions and quashed

the two complaints. It accepted the second ground urged by the Respondents herein, but rejected the first ground. The said order of the High Court is under challenge in these appeals. On the rival contentions urged, the following points arise for consideration :

(i) Whether existence or availment of civil remedy in respect of disputes arising from breach of contract, bars remedy under criminal law?

(ii) Whether the allegations in the complaint, if accepted on face value, constitute any offence under sections 378, 403, 405, 415 or 425 IPC ?

Re : Point No. (i) :

9. The principles relating to exercise of jurisdiction under Section 482 of the Code of Criminal Procedure to quash complaints and criminal proceedings have been stated and reiterated by this Court in several decisions. To mention a few - *Madhavrao Jiwaji Rao Scindia v. Sambhajirao Chandrojirao Angre* [1988 (1) SCC 692], *State of Haryana vs. Bhajanlal* [1992 Supp (1) SCC 335], *Rupan Deol Bajaj vs. Kanwar Pal Singh Gill* [1995 (6) SCC 194], *Central Bureau of Investigation v. Duncans Agro Industries Ltd.*, [1996 (5) SCC 591], *State of Bihar vs. Rajendra Agrawalla* [1996 (8) SCC 164], *Rajesh Bajaj v. State NCT of Delhi*, [1999 (3) SCC 259], *Medchl Chemicals & Pharma (P) Ltd. v. Biological E. Ltd.* [2000 (3) SCC 269], *Hridaya Ranjan Prasad Verma v. State of Bihar* [2000 (4) SCC 168], *M. Krishnan vs Vijay Kumar* [2001 (8) SCC 645], and *Zandu Phamaceutical Works Ltd. v. Mohd. Sharaful Haque* [2005 (1) SCC 122]. The principles, relevant to our purpose are :

(i) A complaint can be quashed where the allegations made in the complaint, even if they are taken at their face value and accepted in their entirety, do not prima facie constitute any offence or make out the case alleged against the accused.

For this purpose, the complaint has to be examined as a whole, but without examining the merits of the allegations. Neither a detailed inquiry nor a meticulous analysis of the material nor an assessment of the reliability or genuineness of the

allegations in the complaint, is warranted while examining prayer for quashing of a complaint.

(ii) A complaint may also be quashed where it is a clear abuse of the process of the court, as when the criminal proceeding is found to have been initiated with malafides/malice for wreaking vengeance or to cause harm, or where the allegations are absurd and inherently improbable.

(iii) The power to quash shall not, however, be used to stifle or scuttle a legitimate prosecution. The power should be used sparingly and with abundant caution.

(iv) The complaint is not required to verbatim reproduce the legal ingredients of the offence alleged. If the necessary factual foundation is laid in the complaint, merely on the ground that a few ingredients have not been stated in detail, the proceedings should not be quashed. Quashing of the complaint is warranted only where the complaint is so bereft of even the basic facts which are absolutely necessary for making out the offence.

(v) A given set of facts may make out : (a) purely a civil wrong; or (b) purely a criminal offence; or (c) a civil wrong as also a criminal offence. A commercial transaction or a contractual dispute, apart from furnishing a cause of action for seeking remedy in civil law, may also involve a criminal offence. As the nature and scope of a civil proceedings are different from a criminal proceeding, the mere fact that the complaint relates to a commercial transaction or breach of contract, for which a civil remedy is available or has been availed, is not by itself a ground to quash the criminal proceedings. The test is whether the allegations in the complaint disclose a criminal offence or not.

10. While on this issue, it is necessary to take notice of a growing tendency in business circles to convert purely civil disputes into criminal cases. This is obviously on account of a prevalent impression that civil law remedies are time consuming and do not adequately protect the interests of lenders/creditors. Such a tendency is seen in several family disputes

also, leading to irretrievable break down of marriages/families. There is also an impression that if a person could somehow be entangled in a criminal prosecution, there is a likelihood of imminent settlement. Any effort to settle civil disputes and claims, which do not involve any criminal offence, by applying pressure though criminal prosecution should be deprecated and discouraged. In G. Sagar Suri vs. State of UP [2000 (2) SCC 636], this Court observed :

"It is to be seen if a matter, which is essentially of civil nature, has been given a cloak of criminal offence. Criminal proceedings are not a short cut of other remedies available in law. Before issuing process a criminal court has to exercise a great deal of caution. For the accused it is a serious matter. This Court has laid certain principles on the basis of which High Court is to exercise its jurisdiction under Section 482 of the Code. Jurisdiction under this Section has to be exercised to prevent abuse of the process of any court or otherwise to secure the ends of justice."

While no one with a legitimate cause or grievance should be prevented from seeking remedies available in criminal law, a complainant who initiates or persists with a prosecution, being fully aware that the criminal proceedings are unwarranted and his remedy lies only in civil law, should himself be made accountable, at the end of such misconceived criminal proceedings, in accordance with law. One positive step that can be taken by the courts, to curb unnecessary prosecutions and harassment of innocent parties, is to exercise their power under section 250 Cr.P.C. more frequently, where they discern malice or frivolousness or ulterior motives on the part of the complainant. Be that as it may."

11. Now in the lines of the judgment under reference let us see if the allegations in the complaint in the present case, if accepted on face value, constitute any offence under Sections 417/419/420/468/471 of the Indian Penal Code, as alleged.

12. **Section 417 of IPC, lays down:-**

“417. Punishment for cheating.—Whoever cheats shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Ingredients of offence. - The essential ingredients of the offence under sec. 417 are as follows:

(1) Accused voluntarily or dishonestly induced the complainant;

(2) He did so for delivery of some property either to the accused or some other person;

(3) He intentionally induced the complainant to do a thing which he would not do or omit to do - a thing which he would have done if not induced;

(4) Such act caused was likely to cause some damage or harm to his body, mind, reputation or property.”

13. In the present case there are prima facie materials showing the presence of ingredients required to constitute the offence alleged under Section 417 of IPC against the petition.

14. **Section 419 of IPC, lays down:-**

“419. Punishment for cheating by personation.—Whoever cheats by personation shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Ingredients of offence.- The essential ingredients of the offence under Section 419 are as follows:-

(1) There was deception by the accused;

(2) The accused fraudulently or dishonestly induced the complainant;

(3) It was intentional;

(4) The accused thereby cheated the complainant;

(5) He did so by pretending to be some other person.”

15. **Section 420 of IPC, lays down:-**

“420. Cheating and dishonestly inducing delivery of property.—Whoever cheats and thereby dishonestly induces the person deceived to deliver

any property to any person, or to make, alter or destroy the whole or any part of a valuable security, or anything which is signed or sealed, and which is capable of being converted into a valuable security, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Ingredients of offence.— The essential ingredients of the offence under Sec. 420 are as follows:-

- (1) There should be fraudulent or dishonest inducement of a person by deceiving him;
- (2) (a) The person so induced should be intentionally induced to deliver any property to any person or to consent that any person shall retain any property, or
 - (b) the person so induced to do anything which he would not do or omit if he were not so deceived, and
 - (c) in cases covered by second part of clause (a), the act or omission should be one which caused or was likely to cause damage or harm to the person induced in body, mind or property.

The two essential ingredients of the offence under this section are –

- (A) Deceit, that is to say dishonest or fraudulent misrepresentation, and
- (B) Inducing the person deceived to part with property.”

16. **Section 468 of IPC, lays down:-**

“468. Forgery for purpose of cheating.—Whoever commits forgery, intending that the document or electronic record forged shall be used for the purpose of cheating, shall be punished with imprisonment of either de-scription for a term which may extend to seven years, and shall also be liable to fine.

Ingredients of offence.- The essential ingredients of the offence under sec . 468 are as follows: (1) There should be a forgery in respect of the document or electronic record in question.

(2) The intention of the forgery should be that the forged document or electronic record is to be used for the purpose of cheating.

(3) There should be forgery with particular intent.

17. **Section 471 of IPC, lays down:-**

“471. Using as genuine a forged document or electronic record.—Whoever fraudulently or dishonestly uses as genuine any document or electronic record which he knows or has reason to believe to be a forged document or electronic record, shall be punished in the same manner as if he had forged such document or electronic record.

Ingredients of offence. -The essential ingredients of the offence under sec. 471 are as follows:

(1) The accused fraudulently or dishonestly used a document or electronic record as genuine;

(2) The accused knew or had reason to believe that the document or electronic record was a forged one.”

18. **In view of the articles seized, materials in the case diary and the money receipts on record, there appears to be prima facie case against the accused for the offence alleged under Section 419/420/468/471 of IPC.**

19. The Supreme Court in **Satishchandra Ratanlal Shah vs. State of Gujarat & Anr., Criminal Appeal No.9 of 2019 (arising out of SLP (Crl.) No. 5223 of 2018), on 3 January, 2019**, held that :-

“11. Coming to the aspect of quashing of the charges, it is well settled that such exercise needs to be undertaken by the High Court in exceptional cases. It is also well settled that the framing of charges being initial stages in the trial process, the court therein cannot be the decision of quashing the charge on the basis of the quality or quantity of evidence rather the enquiry must be limited to a prima facie examination[refer to State of Bihar vs. Ramesh Singh, 1977 CrLJ 1606].

15. Moreover, this Court in a number of cases has usually cautioned against criminalizing civil disputes, such as breach of contractual obligations [refer to *Gian Singh v. State of Punjab*, (2012) 10 SCC 303]. The legislature intended to criminalize only those breaches which are accompanied by fraudulent, dishonest or deceptive inducements, which resulted in involuntary and in-efficient transfers, under Section 415 of IPC.”

20. In ***Ramveer Upadhyay & Anr. Vs State of Uttar Pradesh & Anr., Special Leave Petition (CRL.) No. 2953 of 2022, decided on April 20, 2022***, the Supreme Court held:-

“39. In our considered opinion criminal proceedings cannot be nipped in the bud by exercise of jurisdiction under Section 482 of the Cr.P.C. only because the complaint has been lodged by a political rival. It is possible that a false complaint may have been lodged at the behest of a political opponent. However, such possibility would not justify interference under Section 482 of the Cr.P.C. to quash the criminal proceedings. As observed above, the possibility of retaliation on the part of the petitioners by the acts alleged, after closure of the earlier criminal case cannot be ruled out. The allegations in the complaint constitute offence under the Attrocities Act. **Whether the allegations are true or untrue, would have to be decided in the trial. In exercise of power under Section 482 of the Cr.P.C., the Court does not examine the correctness of the allegations in a complaint except in exceptionally rare cases where it is patently clear that the allegations are frivolous or do not disclose any offence.”**

21. In ***Umesh Kumar Vs State of Andhra Pradesh and Anr., (2013) 10 SCC 591***, the Supreme Court held :-

“20. The scope of Section 482 CrPC is well defined and inherent powers could be exercised by the High Court to give effect to an order under CrPC; to prevent abuse of the process of court; and to

otherwise secure the ends of justice. This extraordinary power is to be exercised *ex debito justitiae*. However, in exercise of such powers, it is not permissible for the High Court to appreciate the evidence as it can only evaluate material documents on record to the extent of its *prima facie* satisfaction about the existence of sufficient ground for proceedings against the accused and the Court cannot look into materials, the acceptability of which is essentially a matter for trial. Any document filed along with the petition labelled as evidence without being tested and proved, cannot be examined. The law does not prohibit entertaining the petition under Section 482 CrPC for quashing the charge-sheet even before the charges are framed or before the application of discharge is filed or even during the pendency of such application before the court concerned. The High Court cannot reject the application merely on the ground that the accused can argue legal and factual issues at the time of the framing of the charge. However, the inherent power of the Court should not be exercised to stifle the legitimate prosecution but can be exercised to save the accused from undergoing the agony of a criminal trial. (Vide *Pepsi Foods Ltd. v. Judicial Magistrate* [(1998) 5 SCC 749 : 1998 SCC (Cri) 1400 : AIR 1998 SC 128], *Ashok Chaturvedi v. Shitul H. Chanchani* [(1998) 7 SCC 698 : 1998 SCC (Cri) 1704 : AIR 1998 SC 2796], *G. Sagar Suri v. State of U.P.* [(2000) 2 SCC 636 : 2000 SCC (Cri) 513] and *Padal Venkata Rama Reddy v. Kovvuri Satyanarayana Reddy* [(2011) 12 SCC 437 : (2012) 1 SCC (Cri) 603].)

21. In *Rajiv Thapar v. Madan Lal Kapoor* [(2013) 3 SCC 330 : (2013) 3 SCC (Cri) 158] this Court while dealing with the issue held as follows : (SCC p. 348, para 30)

“30. Based on the factors canvassed in the foregoing paragraphs, we would delineate the following steps to determine the veracity of a prayer for quashment raised by an accused by invoking the power vested in the High Court under Section 482 of the Code of Criminal Procedure:

30.1. *Step one : Whether the material relied upon by the accused is sound, reasonable and indubitable i.e. the material is of sterling and impeccable quality?*

30.2. *Step two : Whether the material relied upon by the accused would rule out the assertions contained in the charges levelled against the accused i.e. the material is sufficient to reject and overrule the factual assertions contained in the complaint i.e. the material is such as would persuade a reasonable person to dismiss and condemn the factual basis of the accusations as false?*

30.3. *Step three : Whether the material relied upon by the accused has not been refuted by the prosecution/complainant; and/or the material is such that it cannot be justifiably refuted by the prosecution/complainant?*

30.4. *Step four : Whether proceeding with the trial would result in an abuse of process of the court, and would not serve the ends of justice?"*

22. In State of Bihar v. P.P. Sharma [1992 Supp (1) SCC 222 : 1992 SCC (Cri) 192 : AIR 1991 SC 1260] this Court dealt with an issue of whether an application under Section 482 CrPC for quashing the charge-sheet should be entertained before cognizance is taken by a criminal court and held as under : (SCC pp. 269-70, para 68)

"68. ... Quashing the charge-sheet even before cognizance is taken by a criminal court amounts to 'killing a stillborn child'. Till the criminal court takes cognizance of the offence there is no criminal proceedings pending. I am not allowing the appeals on the ground that alternative remedies provided by the Code as a bar. It may be relevant in an appropriate case. My view is that entertaining the writ petitions against charge-sheet and considering the matter on merit in the guise of prima facie evidence to stand an accused for trial amounts to pre-trial of a criminal trial.... It is not to suggest that under no circumstances a writ petition should

be entertained. ... The charge-sheet and the evidence placed in support thereof form the base to take or refuse to take cognizance by the competent court. It is not the case that no offence has been made out in the charge-sheets and the first information report."

(emphasis supplied)

23. *The issue of mala fides loses its significance if there is a substance in the allegation made in the complaint moved with malice. In Sheonandan Paswan v. State of Bihar [(1987) 1 SCC 288 : 1987 SCC (Cri) 82 : AIR 1987 SC 877] this Court held as under : (SCC p. 318, para 16)*

"16. ... It is a well-established proposition of law that a criminal prosecution, if otherwise justifiable and based upon adequate evidence does not become vitiated on account of mala fides or political vendetta of the first informant or the complainant."

24. In Parkash Singh Badal v. State of Punjab [(2007) 1 SCC 1 : (2007) 1 SCC (Cri) 193 : AIR 2007 SC 1274] *this Court held as under : (SCC p. 43, para 74)*

"74. The ultimate test, therefore, is whether the allegations have any substance. An investigation should not be shut out at the threshold because a political opponent or a person with political difference raises an allegation of commission of offence. Therefore, the plea of mala fides as raised cannot be maintained."

25. In State of A.P. v. Golconda Linga Swamy [(2004) 6 SCC 522 : 2004 SCC (Cri) 1805 : AIR 2004 SC 3967] *this Court held as under : (SCC p. 529, para 8)*

"8. ... It is the material collected during the investigation and evidence led in court which decides the fate of the accused person. The allegations of mala fides against the informant are

of no consequence and cannot by themselves be the basis for quashing the proceeding.”

(See also K. Karunakaran v. State of Kerala [(2007) 1 SCC 59 : (2007) 1 SCC (Cri) 251] .)

26. *Thus, in view of the above, it becomes evident that in case there is some substance in the allegations and material exists to substantiate the complicity of the applicant, the case is to be examined in its full conspectus and the proceedings should not be quashed only on the ground that the same had been initiated with mala fides to wreak vengeance or to achieve an ulterior goal.*

27. *The scheme for inquiry/trial provided under CrPC is quite clear. After investigation, report under Section 173(2) CrPC is to be submitted before the competent court i.e. the Magistrate having jurisdiction in the matter and the Magistrate may take cognizance under Section 190 CrPC. However, it is still open to the Magistrate to direct further investigation under the provisions of Section 173(8) CrPC. If the case is triable by the Court of Session, the Magistrate would commit the case to the said court under Section 209 CrPC. It is for the court to examine whether there is sufficient material collected during investigation and filed along with the charge-sheet that a prima facie view can be taken to proceed against the accused and in view thereof, frame charges under Section 228 CrPC. At this stage the remedy available to the accused is to ask for discharge under Section 227 CrPC. In case charges are framed the accused has to face the trial, charges can be added/ altered at any stage of the trial, before the pronouncement of the judgment to suit the evidence adduced before the court, under the provisions of Section 216 CrPC. The only legal requirement is that a witness has to be recalled as provided under Section 217 CrPC when a charge is altered or added by the court.”*

22. The Supreme Court in ***Daxaben Vs The State of Gujarat & Ors., Criminal Appeal No.....of 2022, on July 29, 2022***, held that:-

“14. The proposition of law enunciated and/or re-enunciated in the judgments cited above are well settled. Whether the acts alleged would constitute an offence, would depend upon the facts and circumstances of the case. Each case has to be judged on its own merits.

28. In Monica Kumar (Dr.) v. State of U.P., this Court held that inherent jurisdiction under Section 482 of the Cr.P.C has to be exercised sparingly, carefully and with caution and only when such exercise is justified by the tests specifically laid down in the section itself.

29. In exceptional cases, to prevent abuse of the process of the Court, the High Court might in exercise of its inherent powers under Section 482 quash criminal proceedings. However, interference would only be justified when the complaint did not disclose any offence, or was patently frivolous, vexatious or oppressive, as held by this Court in Mrs. Dhanalakshmi v. R. Prasanna Kumar.

30. In Municipal Corporation of Delhi v. Ram Kishan Rohtagi and Others., a three-Judge Bench of this Court held:-

“6. It may be noticed that Section 482 of the present Code is the ad verbatim copy of Section 561- A of the old Code. This provision confers a separate and independent power on the High Court alone to pass orders ex debito justitiae in cases where grave and substantial injustice has been done or where the process of the court has been seriously abused. It is not merely a revisional power meant to be exercised against the orders passed by subordinate courts. It was under this section that in the old Code, the High Courts used to quash the proceedings or expunge uncalled for remarks against witnesses or other persons or subordinate courts. Thus, the scope, ambit and range of Section 561- A (which is now Section 482) is quite different from the powers conferred by the present Code under the provisions of Section 397. It may be that in some cases there may be overlapping but such cases would be few and far between. It is well settled that the inherent powers under Section 482 of the present Code can be exercised only when no other remedy is available to the litigant and not where a specific remedy is provided by the statute. Further, the power being an extraordinary one, it has to be exercised sparingly. If these considerations are kept in mind, there will be no inconsistency between Sections 482 and 397(2) of the present Code.

7. The limits of the power under Section 482 were clearly defined by this Court in *Raj Kapoor v. State* [(1980) 1 SCC 43 : 1980 SCC (Cri) 72] where *Krishna Iyer, J.* observed as follows : [SCC para 10, p. 47 : SCC (Cri) p. 76]

“Even so, a general principle pervades this branch of law when a specific provision is made : easy resort to inherent power is not right except under compelling circumstances. Not that there is absence of jurisdiction but that inherent power should not invade areas set apart for specific power under the same Code.”

8. Another important consideration which is to be kept in mind is as to when the High Court acting under the provisions of Section 482 should exercise the inherent power insofar as quashing of criminal proceedings are concerned. This matter was gone into in greater detail in *Smt. Nagawwa v. Veeranna Shivalingappa Konjalgi* [(1976) 3 SCC 736 : 1976 SCC (Cri) 507 : 1976 Supp SCR 123 : 1976 Cri LJ 1533] where the scope of Sections 202 and 204 of the present Code was considered and while laying down the guidelines and the grounds on which proceedings could be quashed this Court observed as follows : [SCC para 5, p. 741 : SCC (Cri) pp. 511-12]

“Thus it may be safely held that in the following cases an order of the Magistrate issuing process against the accused can be quashed or set aside:

(1) where the allegations made in the complaint or the statements of the witnesses recorded in support of the same taken at their face value make out absolutely no case against the accused or the complaint does not disclose the essential ingredients of an offence which is alleged against the accused;

(2) where the allegations made in the complaint are patently absurd and inherently improbable so that no prudent person can ever reach a conclusion that there is sufficient ground for proceeding against the accused;

(3) where the discretion exercised by the Magistrate in issuing process is capricious and arbitrary having been based either on no evidence or on materials which are wholly irrelevant or inadmissible; and

(4) where the complaint suffers from fundamental legal defects, such as, want of sanction, or absence of a complaint by legally competent authority and the like.

The cases mentioned by us are purely illustrative and provide sufficient guidelines to indicate contingencies where the High Court can quash proceedings.”

9. Same view was taken in a later decision of this Court in *Sharda Prasad Sinha v. State of Bihar* [(1977) 1 SCC

505 : 1977 SCC (Cri) 132 : (1977) 2 SCR 357 : 1977 Cri LJ 1146] where Bhagwati, J. speaking for the Court observed as follows : [SCC para 2, p. 506 : SCC (Cri) p. 133]

“It is now settled law that where the allegations set out in the complaint or the charge-sheet do not constitute any offence, it is competent to the High Court exercising its inherent jurisdiction under Section 482 of the Code of Criminal Procedure to quash the order passed by the Magistrate taking cognizance of the offence.

10. It is, therefore, manifestly clear that proceedings against an accused in the initial stages can be quashed only if on the face of the complaint or the papers accompanying the same, no offence is constituted. In other words, the test is that taking the allegations and the complaint as they are, without adding or subtracting anything, if no offence is made out then the High Court will be justified in quashing the proceedings in exercise of its powers under Section 482 of the present Code.”

31. As held by this Court in **State of Andhra Pradesh v. Gourieshetty Mahesh**, the High Court, while exercising jurisdiction under Section 482 of the Cr.P.C, would not ordinarily embark upon an enquiry into whether the evidence is reliable or not or whether there is reasonable possibility that the accusation would not be sustained.

32. In **Paramjeet Batra v. State of Uttrakhand**, this Court held:—

“12. While exercising its jurisdiction under Section 482 of the Code the High Court has to be cautious. This power is to be used sparingly and only for the purpose of preventing abuse of the process of any court or otherwise to secure ends of justice. Whether a complaint discloses a criminal offence or not depends upon the nature of facts alleged therein. Whether essential ingredients of criminal offence are present or not has to be judged by the High Court. ...”

33. In **Madhavrao Jiwajirao Scindia v. Sambhajirao Chandrojirao Angre**, a three Judge Bench of this Court summarized the law with regard to quashing of criminal proceedings under Section 482 of the Cr.P.C. This Court held:—

“7. The legal position is well settled that when a prosecution at the initial stage is asked to be quashed, the test to be applied by the court is as to whether the uncontroverted allegations as made prima facie establish the offence. It is also for the court to take into consideration any special features which appear in a particular case to consider whether it is expedient and

in the interest of justice to permit a prosecution to continue. This is so on the basis that the court cannot be utilised for any oblique purpose and where in the opinion of the court chances of an ultimate conviction are bleak and, therefore, no useful purpose is likely to be served by allowing a criminal prosecution to continue, the court may while taking into consideration the special facts of a case also quash the proceeding even though it may be at a preliminary stage.”

34. In *Inder Mohan Goswami v. State of Uttaranchal*, this Court observed:—

“46. The court must ensure that criminal prosecution is not used as an instrument of harassment or for seeking private vendetta or with an ulterior motive to pressurise the accused. On analysis of the aforementioned cases, we are of the opinion that it is neither possible nor desirable to lay down an inflexible rule that would govern the exercise of inherent jurisdiction. Inherent jurisdiction of the High Courts under Section 482 CrPC though wide has to be exercised sparingly, carefully and with caution and only when it is justified by the tests specifically laid down in the statute itself and in the aforementioned cases. In view of the settled legal position, the impugned judgment cannot be sustained.”

35. It is a well settled proposition of law that criminal prosecution, if otherwise justified, is not vitiated on account of malafides or vendetta. As said by Krishna Iyer, J. in ***State of Punjab v. Gurdial Singh*** “if the use of the power for the fulfilment of a legitimate object the actuation or catalysation by malice is not legicidal.”

36. In *Kapil Agarwal & Ors. v. Sanjay Sharma & Others*, this Court observed that Section 482 of the Cr.P.C. is designed to achieve the purpose of ensuring that criminal proceedings are not permitted to degenerate into weapons of harassment.

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

38. However, before exercising its power under Section 482 of the Cr.P.C. to quash an FIR, criminal complaint and/or criminal proceedings, the High Court, as observed above, has to be circumspect and have due regard to the nature and gravity of the offence. Heinous or serious crimes, which are not private in nature and have a serious impact on society cannot be quashed on the basis of a compromise between the offender and the complainant and/or the victim. Crimes like murder, rape, burglary, dacoity and even abetment to commit suicide are neither private nor civil in nature. Such crimes are against the society. In no circumstances can prosecution be quashed on compromise, when the offence is serious and grave and falls within the ambit of crime against society.

39. Orders quashing FIRs and/or complaints relating to grave and serious offences only on basis of an agreement with the complainant, would set a dangerous precedent, where complaints would be lodged for oblique reasons, with a view to extract money from the accused. Furthermore, financially strong offenders would go scot free, even in cases of grave and serious offences such as murder, rape, brideburning, etc. by buying off informants/complainants and settling with them. This would render otiose provisions such as Sections 306, 498A, 304-B etc. incorporated in the IPC as a deterrent, with a specific social purpose.

40. In Criminal Jurisprudence, the position of the complainant is only that of the informant. Once an FIR and/or criminal complaint is lodged and a criminal case is started by the State, it becomes a matter between the State and the accused. The State has a duty to ensure that law and order is maintained in society. It is for the state to prosecute offenders. In case of grave and serious noncompoundable offences which impact society, the informant and/or complainant only has the right of hearing, to the extent of ensuring that justice is done by conviction and punishment of the offender. An informant has no right in law to withdraw the complaint of a noncompoundable offence of a grave, serious and/or heinous nature, which impacts society.

41. In **Gian Singh v. State of Punjab**, this Court discussed the circumstances in which the High Court quashes criminal proceedings in case of a non-compoundable offence, when there is a settlement between the parties and enunciated the following principles:-

“58. Where the High Court quashes a criminal proceeding having regard to the fact that the dispute

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

42. In **Narinder Singh v. State of Punjab**, this Court held that in case of heinous and serious offences, which are generally to be treated as crime against society, it is the duty of the State to punish the offender. Hence, even when there is a settlement, the view of the offender and victim will not prevail since it is in the interest of society that the offender should be punished to deter others from committing a similar crime.

43. In *State of Maharashtra v. Vikram Anantrai Doshi*, this Court held:-

“26. ... availing of money from a nationalised bank in the manner, as alleged by the investigating agency, vividly exposits fiscal impurity and, in a way, financial fraud. The modus operandi as narrated in the charge-sheet cannot be put in the compartment of an individual or personal wrong. It is a social wrong and it has immense societal impact. It is an accepted principle of handling of finance that whenever there is manipulation and cleverly conceived contrivance to avail of these kinds of benefits it cannot be regarded as a case having overwhelmingly and predominatingly civil character. The ultimate victim is the collective. It creates a hazard in the financial interest of the society. The gravity of the offence creates a dent in the economic spine of the nation. ...”

44. In *CBI v. Maninder Singh*, this Court held:-

“17. ... In economic offences the Court must not only keep in view that money has been paid to the bank which has been defrauded but also the society at large. It is not a case of simple assault or a theft of a trivial amount; but the offence with which we are concerned was well planned and was committed with a deliberate design with an eye on personal profit regardless of consequence to the society at large. To quash the proceeding merely on the ground that the accused has settled the amount with the bank would be a misplaced sympathy. If the prosecution against the economic offenders are not allowed to continue, the entire community is aggrieved.”

45. In *State of Tamil Nadu v. R. Vasanthi Stanley*, this Court held:-

“14. ... Lack of awareness, knowledge or intent is neither to be considered nor accepted in economic offences. The submission assiduously presented on gender leaves us unimpressed. An offence under the criminal law is an offence and it does not depend upon the gender of an accused. True it is, there are certain provisions in CrPC relating to exercise of jurisdiction under Section 437, etc. therein but that altogether pertains to a different sphere. A person committing a murder or getting involved in a financial scam or forgery of documents, cannot claim discharge or acquittal on the ground of her gender as that is neither constitutionally nor statutorily a valid argument. The offence is gender neutral in this case. We say no more on this score.

15. ... A grave criminal offence or serious economic offence or for that matter the offence that has the

potentiality to create a dent in the financial health of the institutions, is not to be quashed on the ground that there is delay in trial or the principle that when the matter has been settled it should be quashed to avoid the load on the system. ...”

46. In **Parbatbhai Aahir Alias Parbathbhai Bhimsinhbhai Karmur and Others v. State of Gujrat and Another**, a three Judge Bench of this Court quoted **Narinder Singh** (supra), **Vikram Anantrai Doshi** (supra), **CBI v. Maninder Singh** (supra), **R. Vasanthi Stanley** (supra) and held:-

“16. The broad principles which emerge from the precedents on the subject, may be summarised in the following propositions:

16.1. Section 482 preserves the inherent powers of the High Court to prevent an abuse of the process of any court or to secure the ends of justice. The provision does not confer new powers. It only recognises and preserves powers which inhere in the High Court.

16.2. The invocation of the jurisdiction of the High Court to quash a first information report or a criminal proceeding on the ground that a settlement has been arrived at between the offender and the victim is not the same as the invocation of jurisdiction for the purpose of compounding an offence. While compounding an offence, the power of the court is governed by the provisions of Section 320 of the Code of Criminal Procedure, 1973. The power to quash under Section 482 is attracted even if the offence is non-compoundable.

16.3. In forming an opinion whether a criminal proceeding or complaint should be quashed in exercise of its jurisdiction under Section 482, the High Court must evaluate whether the ends of justice would justify the exercise of the inherent power.

16.4. While the inherent power of the High Court has a wide ambit and plenitude it has to be exercised (i) to secure the ends of justice, or (ii) to prevent an abuse of the process of any court.

16.5. The decision as to whether a complaint or first information report should be quashed on the ground that the offender and victim have settled the dispute, revolves ultimately on the facts and circumstances of each case and no exhaustive elaboration of principles can be formulated.

16.6. In the exercise of the power under Section 482 and while dealing with a plea that the dispute has been settled, the High Court must have due regard to the nature and gravity of the offence. Heinous and serious offences involving mental depravity or offences such as

murder, rape and dacoity cannot appropriately be quashed though the victim or the family of the victim have settled the dispute. Such offences are, truly speaking, not private in nature but have a serious impact upon society. The decision to continue with the trial in such cases is founded on the overriding element of public interest in punishing persons for serious offences.

16.7. As distinguished from serious offences, there may be criminal cases which have an overwhelming or predominant element of a civil dispute. They stand on a distinct footing insofar as the exercise of the inherent power to quash is concerned.

16.8. Criminal cases involving offences which arise from commercial, financial, mercantile, partnership or similar transactions with an essentially civil flavour may in appropriate situations fall for quashing where parties have settled the dispute.

16.9. In such a case, the High Court may quash the criminal proceeding if in view of the compromise between the disputants, the possibility of a conviction is remote and the continuation of a criminal proceeding would cause oppression and prejudice; and

16.10. There is yet an exception to the principle set out in propositions 16.8. and 16.9. above. Economic offences involving the financial and economic well-being of the State have implications which lie beyond the domain of a mere dispute between private disputants. The High Court would be justified in declining to quash where the offender is involved in an activity akin to a financial or economic fraud or misdemeanour. The consequences of the act complained of upon the financial or economic system will weigh in the balance.”

47. In *State of Madhya Pradesh v. Laxmi Narayan & Ors.*, a three-Judge Bench discussed the earlier judgments of this Court and laid down the following principles:-

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

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

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

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

15.4. Offences under Section 307 IPC and the Arms Act, etc. would fall in the category of heinous and serious offences and therefore are to be treated as crime against the society and not against the individual alone, and therefore, the criminal proceedings for the offence under Section 307 IPC and/or the Arms Act, etc. which have a serious impact on the society cannot be quashed in exercise of powers under Section 482 of the Code, on the ground that the parties have resolved their entire dispute amongst themselves. However, the High Court would not rest its decision merely because there is a mention of Section 307 IPC in the FIR or the charge is framed under this provision. It would be open to the High Court to examine as to whether incorporation of Section 307 IPC is there for the sake of it or the prosecution has collected sufficient evidence, which if proved, would lead to framing the charge under Section 307 IPC. For this purpose, it would be open to the High Court to go by the nature of injury sustained, whether such injury is inflicted on the vital/delicate parts of the body, nature of weapons used, etc. However, such an exercise by the High Court would be permissible only after the evidence is collected after investigation and the charge-sheet is filed/charge is framed and/or during the trial. Such exercise is not permissible when the matter is still under investigation. Therefore, the ultimate conclusion in paras 29.6 and 29.7 of the decision of this Court in *Narinder Singh* [(2014) 6 SCC 466: (2014) 3 SCC (Cri) 54] should be read harmoniously and to be read as a whole and in the circumstances stated hereinabove;

15.5. While exercising the power under Section 482 of the Code to quash the criminal proceedings in respect of noncompoundable 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.”

48. In **Arun Singh and Others v. State of Uttar Pradesh Through its Secretary and Another**, this Court held:-

“14. In another decision in *Narinder Singh v. State of Punjab* (2014) 6 SCC 466 : (2014) 3 SCC (Cri) 54] it has been observed that in respect of offence against the society it is the duty to punish the offender. Hence, even where there is a settlement between the offender and victim the same shall not prevail since it is in interests of the society that offender should be punished which acts as deterrent for others from committing similar crime. On the other hand, there may be offences falling in the category where the correctional objective of criminal law would have to be given more weightage than the theory of deterrent punishment. In such cases, the court may be of the opinion that a settlement between the parties would lead to better relations between them and would resolve a festering private dispute and thus may exercise power under Section 482 CrPC for quashing the proceedings or the complaint or the FIR as the case may be.

15. Bearing in mind the above principles which have been laid down, we are of the view that offences for which the appellants have been charged are in fact offences against society and not private in nature. Such offences have serious impact upon society and continuance of trial of such cases is founded on the overriding effect of public interests in punishing persons for such serious offences. It is neither an offence arising out of commercial, financial, mercantile, partnership or such similar transactions or has any element of civil dispute thus it stands on a distinct footing. In such cases, settlement even if arrived at between the complainant and the accused, the same cannot constitute a valid ground to quash the FIR or the charge-sheet.

16. Thus the High Court cannot be said to be unjustified in refusing to quash the charge-sheet on the ground of compromise between the parties.”

49. In exercise of power under Section 482 of the Cr.P.C., the Court does not examine the correctness of the allegation in the complaint except in exceptionally rare cases where it is patently clear that the allegations are frivolous or do not disclose any offence.

50. *In our considered opinion, the Criminal Proceeding cannot be nipped in the bud by exercise of jurisdiction under Section 482 of the Cr. P.C. only because there is a settlement, in this case a monetary settlement, between the accused and the complainant and other relatives of the deceased to the exclusion of the hapless widow of the deceased. As held by the three-Judge Bench of this Court in **Laxmi Narayan & Ors.** (supra), Section 307 of the IPC falls in the category of heinous and serious offences and are to be treated as crime against society and not against the individual alone. On a parity of reasoning, offence under section 306 of the IPC would fall in the same category. An FIR under Section 306 of the IPC cannot even be quashed on the basis of any financial settlement with the informant, surviving spouse, parents, children, guardians, care-givers or anyone else. It is clarified that it was not necessary for this Court to examine the question whether the FIR in this case discloses any offence under Section 306 of the IPC, since the High Court, in exercise of its power under Section 482 CrPC, quashed the proceedings on the sole ground that the disputes between the accused and the informant had been compromised.”*

23. **As there is prima facie materials in this case as discussed herein, against the petitioners, the case has to proceed towards trial to be decided in accordance with law.**
24. Quashing a case of such a nature will cause miscarriage of justice **(Daxaben Vs The State of Gujarat & Ors. (Supra))** and thus be an abuse of the process of law.
25. **CRR 1571 of 2023 along with CRR 2011 of 2022 are dismissed.**
26. **Trial Court to proceed expeditiously.**
27. All connected applications, if any, stands disposed of.
28. Interim order, if any, stands vacated.
29. Copy of this judgment be sent to the learned Trial Court for necessary compliance.

30. Urgent certified website copy of this judgment, if applied for, be supplied expeditiously after complying with all, necessary legal formalities.

(Shampa Dutt (Paul), J.)