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**IN THE HIGH COURT OF MADHYA PRADESH
AT GWALIOR**

**BEFORE
HON'BLE SHRI JUSTICE MILIND RAMESH PHADKE**

ON THE 17th OF JANUARY, 2024

MISC. CRIMINAL CASE No. 56262 of 2023

BETWEEN:-

1. **ROHIT KUCHVANDIYA @ ROHIT ADIWASI S/O SHRI HAKIM KUCHVANDYA, AGED ABOUT 21 YEARS, OCCUPATION: LABOR KOTHI NO 30 SHIVPURI FATEHPUR ROAD SHIVPURI (MADHYA PRADESH)**
2. **HAKIM KUCHVANDIYA @ HAKIM ADIWASI S/O LATE SHRI RAMPRASAD ADIWASI, AGED ABOUT 37 YEARS, OCCUPATION: LABOUR KOTHI NO. 30 SHIVPURI FATEHPUR ROAD (MADHYA PRADESH)**
3. **SMT. SUVETI ADIWASI KUCHWADIYA @ SUVETI ADIWASI W/O SHRI HAKIM KUCHVANDIYA @ HAKIM ADIWASI, AGED ABOUT 35 YEARS, OCCUPATION: HOUSE WIFE KOTHI NO. 30 SHIVPURI (MADHYA PRADESH)**
4. **RAVI SAUR S/O SHRI HAKIM KUCHVANDIYA @ HAKIM ADIWASI, AGED ABOUT 23 YEARS, KOTHI NO. 30 SHIVPURI FATEHPUR ROAD (MADHYA PRADESH)**

.....PETITIONERS

(BY SHRI R.V. TRIPATHI - ADVOCATE)

AND

1. **THE STATE OF MADHYA PRADESH INCHARGE POLICE STATION THROUGH POLICE STATION MAHILA THANA DATIA DISTT DATIA (MADHYA PRADESH)**
2. **SMT. PRIYANKA KUCHVANDIYA W/O SHRI ROHIT KUCHVANDIYA @ ROHIT ADIWASI D/O SHRI SHYAMLAL @ SHAYMA SEONDA CHUNGI NIDAN KA KUAN CIVIL LINE (MADHYA PRADESH)**

.....RESPONDENTS

This application coming on for hearing this day, the court passed the following:

ORDER

By invoking inherent powers of this Court, present petition has been preferred by petitioners u/S.482 of Cr.P.C. seeking quashment of FIR bearing Crime No.15/2023 registered on 27.06.2023 at Police Station Mahila Thana, District Datia under Sections 498-A, 294, 323, 34 of IPC and u/s. 3/ 4 of Dowry Prohibition Act against the petitioners.

2. Along with the petition, both the parties have filed I.A. No. 23514/2023 and I.A. No. 23588/2023 stating therein that the dispute between the parties has been resolved and they have entered into compromise with no intention to pursue the matter further.

3. In compliance of order passed by this Court, the factum of compromise has been verified by the Principal Registrar of this Court, who has recorded the statements of complainant - respondent No. 2 as well as petitioners - accused persons and has submitted the report that the parties have arrived at compromise voluntarily without any threat, inducement and coercion.

4. In view of the above, it would be apposite to survey the law in respect of compounding in non-compoundable case. The Apex Court in the case of **Gian Singh Vs. State of Punjab and Anr. reported in (2012) 10 SCC 303** after considering the provisions of section 320 and 482 of the Cr.P.C held that the compounding can be permitted in a non-compoundable offence. Relevant part of the order of the order reads as under :-

"Quashing of offence or criminal proceedings on the ground of settlement between an offender and victim is not the same thing as compounding of offence. They

are different and not interchangeable. Strictly speaking, the power of compounding of offences given to a court under Section 320 is materially different from the quashing of criminal proceedings by the High Court in exercise of its inherent jurisdiction. In compounding of offences, power of a criminal court is circumscribed by the provisions contained in Section 320 and the court is guided solely and squarely thereby while, on the other hand, the formation of opinion by the High Court for quashing a criminal offence or criminal proceeding or criminal complaint is guided by the material on record as to whether the ends of justice would justify such exercise of power although the ultimate consequence may be acquittal or dismissal of indictment.

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

5. In a subsequent order, in the case of **Narinder Singh and Ors Vs. State of Punjab and Anr. passed in Criminal Appeal No.686/2014** dated 27.03.2014 after relying on the judgment passed in the case of Gian Singh (supra), the Apex Court permitted the compounding in a non-compoundable case and quashed the criminal proceedings.

6. In the case of **Daxaben vs. State of Gujarat** (Arising out of SLP (Crl.) No.1132-1155 of 2022), the Apex Court held that 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 Cr.P.C. to quash the criminal proceedings.

7. In the case of **State of M.P. vs. Laxmi Narayan (2019) 5 SCC 688**, a Three Judge Bench of the Apex Court discussed the earlier judgments of the Apex Court and laid down the principles in para-15. The relevant para-15.1 and 15.2 are reproduced 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;"

8. In the case of **Jaswant Singh vs. State of Punjab and Anr.**, Criminal Appeal No.1233 of 2021 (Arising out of SLP (Crl.) No.7072 of 2021 decided on 20.10.2021), the Apex Court held in para 61 that criminal cases having overwhelmingly and predominatingly civil flavour stand on a different

footing for the purposes of quashing, particularly the offences arising from commercial, financial, mercantile, civil, partnership or such like transactions or the offences arising out of matrimony relating to dowry, etc. or the family disputes where the wrong is basically private or personal in nature and the parties have resolved their entire dispute, the proceedings can be quashed in exercise of the powers under Section 482 of the Cr.P.C. in non-compoundable cases on the basis of compounding.

9. In the cases of **Jagdish Channa & others Vs. State of Haryana & another (AIR 2008 SC 1968)**, **Madan Mohan Abbot Vs. State of Punjab (AIR 2008 SC 1969)**, **Shiji Vs. Radhika & Another (2011) 10 SCC 705**, **Narinder Singh & others Vs. State of Punjab (2014) 6 SCC 466** and **Anita Maria Dias and Another vs. State of Maharashtra and Anr. (2018) 3 SCC 290**, Supreme Court has laid down that even in non-compoundable cases on the basis of compromise, criminal proceedings can be quashed so that valuable time of the Court can be saved and utilised in other material cases.

10. In view of the above facts and circumstances and taking into account the law laid down by Hon'ble Apex Court, in the opinion of this court, continuance of the prosecution in such matters will be a futile exercise which will serve no purpose. Under such a situation, Section 482 Cr.P.C. can be justifiably invoked to prevent abuse of the process of law and wasteful exercise by the courts below.

11. Considering the fact that respondent No. 2 - complainant and petitioners- accused person have amicably resolved the issue, this Court **allows** this MCRC with the following directions:-

1. FIR bearing Crime No.15/2023 registered on 27.06.2023 at Police Station Mahila Thana, District Datia under

Sections 498-A, 294, 323, 34 of IPC and u/s. 3/ 4 of Dowry Prohibition Act against the petitioners is hereby quashed.

2. All the consequential proceedings flowing out of the said FIR also stand quashed.

12. Petition stands **disposed of**. No order as to costs.

(MILIND RAMESH PHADKE)
JUDGE

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