IN THE HIGH COURT AT CALCUTTA

Criminal Revisional Jurisdiction

APPELLATE SIDE

Present:

The Hon'ble Justice Shampa Dutt (Paul)

CRR 3244 of 2023
Md. Jamil & Ors.
Vs
The State of West Bengal & Anr.

With

CRR 4421 of 2023
Sisir Saha & Anr.
Vs
The State of West Bengal & Anr.

With

CRR 1947 of 2024
Akbar Ali & Anr.
Vs
The State of West Bengal & Anr.

With

CRR 1950 of 2024
Wakil Ahamed & Anr.
Vs
The State of West Bengal & Anr.

For the Petitioners (in CRR 3244 of 2023)	:	Mr. Pawan Kr. Gupta Ms. Sofia Nesar, Mr. Santanu Sett.
For the Petitioners (in CRR 4421 of 2023)	:	Mr. Sekhar Kr. Basu, Sr. Adv. Mr. Antarikhya Basu, Mr. Sayan Mukherjee, Ms. Madhumita Basak.
For the Petitioners (in CRR 1947 & 1950 of 2024)	:	Mr. Kishore Mukherjee.

For the State (in CRR 3244 & 4421 of 2023)	:	Mr. Debasish Roy, ld.PP Mr. Bitasok Banerjee, Ms. Subhasree Patel.
For the State (in CRR 1947 & 1950 of 2024)	:	Mr. Debasish Roy, ld.PP Mr. Bitasok Banerjee,
For the Private Opposite Party (in CRR 1947 & 1950 of 2024)	:	Mr. Amarta Ghose, Mr. Vijay Verma.
For the Opposite Party No. 2 (in CRR 4421 of 2023)	:	Mr. Soumya Nag.
For the Victim (in CRR 4421 of 2023)	:	Mr. Prosenjit Mukherjee, Mr. Samrat Banerjee.
Hearing concluded on	:	18.12.2024
Judgment on	:	13.01.2025

Shampa Dutt (Paul), J.:

1. The present revisional application has been preferred praying for quashing of entire proceedings, being G.R. Case No. 304 of 2023 arising out of Serampore P.S. Case No. 53 of 2023 dated 08.02.2023 under Sections 420/467/468/409/120B/34 of the Indian Penal Code, pending before the learned Additional Chief Judicial Magistrate, Serampore, Hooghly.

2. The petitioner's case is that the on 26.05.2015, one Seema Singh lodged a complaint before the Serampore Police Station, alleging inter alia that:-

> *"......a piece of land measuring about 49 cottahs comprising Plot nos. 7141, 7142 and 7143 (L.R) in L.R. Khatian NO. 4317 under Mouza-Mahesh-15 under Serampore Municipality known as Laalmath adjacent to Serampore Housing Estate at R.K. Road belonging to Bangeswari Cotton Mills Ltd. is lying vacant 30/35 years since closure of the Mills, i.e. 1975 or before. As the factory is closed forever, as per prevailing law the said plots are vested with Government and in porcha there is nothing corresponding to L.R. Khatian 4317 as u/s 6(3) of WBEA Act and Section 4(1) of WBLR Act. Showing Subedar Khan and Mastu Mia as absolute owner of the said plots, a Power of Attorney has been executed in the names of (1) Wakil Ahmed, (2) Mohammad Shamim and (3) Mohammad Nayeem being No. 05541 executed on 07.08.2014 ARA-III, Kolkata.* ***On physical verification she came to know that those two persons showing as owners do not live at the mentioned addresses in Kamarhati and the power of attorney is fabricated one.*** *On the strength of said power of attorney the aforesaid three persons have been selling the said plots to laymen @ Rs.7 lakhs per cottah at ARA-III, Kolkata by showing RS and CS plot nos. On the basis of such complaint, Serampore Police Station initiated a criminal case against the aforesaid three persons namely (1) Wakil Ahmed, (2) Mohammad Shamim Anwar and (3) Mohammad Nayeem, being Serampore Police Station case No. 236 of 2015 dated 26.05.2015 under Sections 467/468/406/420/120B of the Indian Penal Code and the said case ended up in Charge Sheet being Charge Sheet No. 153 of 2016 dated 17.05.2016 under Sections 467/468/406/420/120B of the Indian Penal Code against the aforesaid three persons (1) Wakil Ahmed, (2) Samim Anowar @ Munna and (3) Mohammad Nayeem....."*

3. One Aftab Alam also filed an application under Section 156(3) of the Code of Criminal Procedure before the Court of learned Additional Chief Judicial Magistrate at Serampore, Hooghly on 01.02.2023 being C.R. Case NO. 51 of 2023 with a prayer to direct the

Serampore Police Station to treat the said application as complaint and initiate an FIR.

4. The petitioners state that in the said application it has been alleged that:-

> *"……40 kathas of land comprising R.S. Dag No. 1731 corresponding to L.R. Dag No. 7141 and 7142 in Mouza-Mahesh, J.L. No. 15, L.R. Khatian No. 4317 adjacent to Serampore Housing Estate (66, R.K. Road) known as Lalmaath. The land still recorded in the name of Bangeswari Cotton Mills Ltd. The land was lying vacant since 1972 after the closure of the factory. Nasima Parween who had been Councilor from 2015 to 2022 hatched a conspiracy with her husband Akbar Ali who is existing Councilor, sold the entire land in fraudulent manner. They lured Wakil Ahmed and Md. Shamim Anwar for their nefarious mission and got a fraudulent power of attorney registered being no. 190305100 dated 28.08.2016 executed at ARA-II, Kolkata in favour of Wakil Ahmed and Md. Shamim Anwar by Subedar Khan of Kamarhati. The land is vested to the State. It is noted u/s 6(3) of WBEA Act and Section 4 (c)(1) of WBLR Act corresponding to L.R. Khatian No. 4317 as such no individual have right to possess or sell the said land and the power of attorney is illegal as Subedar Khan is artificial person and does not live in the address mentioned. On the basis of the said fraudulent power of attorney several deeds have been executed at ARA-III, Kolkata @ Rs.10 to 15 lakhs, about 22 deeds have been executed and crores have been amassed by the Councilors. The Councilor has managed to get the land mutated in the name of purchaser at the municipality but could not do it in the office of BL & LRO as it is termed as a Govt. land in ROR……"*

5. **The petitioners in CRR 3244 of 2023 have signed as identifiers and witnesses on some deeds which were allegedly executed on the basis of fabricated power of attorney.**

6. **The petitioners in CRR 3244 of 2023 state that the petitioners are party workers and on the request of Akbar Ali, the local councilor, the petitioners became identifiers and witnesses in the alleged deeds. The petitioners had no knowledge about the said power of attorney being fake and on good faith and being requested by the said Akbar Ali, the petitioners signed in the said alleged deeds as identifiers and witnesses.**

7. **In CRR 4421 of 2023,** the petitioner's case **(Sisir Saha & Imtiaz Ahamed)** is that the petitioner no. 1 is the erstwhile Councilor of Ward No. 24, under the Serampore Municipality, Hooghly and held the said office for about 25 years (i.e. from 1990 to 2014). During his tenure as the Councilor, the integrity and dignity of the petitioner no. 1 has never been blemished in any manner, whatsoever. The petitioner no. 2 is self-employed as the proprietor of M/s Raju Constructions, having his registered office at Premises No. 13/A, PK Das Lane, Serampore, Post Office-Rishra, P.S. Serampore, PIN-712248 which operates as Civil and Electrical Contractor.

8. **In CRR 1947 of 2024,** the petitioners **(Akbar Ali & Nasima Parween)** are the FIR named accused persons. The said petitioners were the Councilors of the local areas where the land was allegedly being transferred fraudulently.

9. **In CRR 1950 of 2024,** the petitioners **(Wakil Ahamed & Md. Shamim Anwar)** are the ones **who acted on the basis of the fake power of attorney.**

10. The State has filed a report on affidavit to the second supplementary affidavit filed by the petitioners **in CRR 3244 of 2023.**

11. From the materials on record and in the case diaries, it prima facie appears that a large quantity of **land vested with the Government** have been transferred allegedly by way of fake power of attorney and several documents have been executed fraudulently.

12. The memo of evidence submitted through the State by the Assistant Commissioner of Police-II, Serampore Sub Division, Chandannagar Police Commissionerate reads as follows:-

> *"……that Nasima Parween who had been councilor from 2015 to 2022 hatched conspiracy with her husband Akbar Ali who is existing councilor, to sell this entire land in fraudulent manner. They lured Wakil Ahmed and Md. Shamim Anwar for their nefarious mission/design and got fraudulent power of attorney being no. 190305100, Dt. 28.08.16 executed at ARA-II, Kolkata in favour of them by Subedar Khan S/o Salamat Khan of Kamarhati. That it is to be noted that when a factory is closed for indefinite period, section 6(3) of West Bengal Estate Acquisition Act and section 4(c)(1) of West Bengal Land Reform Act apply in respect of all lands and land is deemed to have been vested to the state. The aforesaid sections are noted against each plots in Khatian No. 4317 (LR) that means, no private individuals have any right to possess or sell it to any one in any way. Thus the power of attorney is illegal based on fabrication of facts as Subedar Khan is a artificial person having no connection with the land. He also does not live at the address mentioned in the power of attorney. That on the basis of fraudulent power of attorney several deeds have been executed at ARA-III, Kolkata @ Rs.10,00,000 to 15,00,000 per Khatha. That the councilor has managed mutations of this land in*

> *favour of purchasers with municipality and holding nos. have been allotted as 66/1 to 66/43 by the municipality without verifying the authenticity of power of attorney and deeds. On the basis of complaint the above reference case has been started and being endorsed by I/C, Serampore PS, the then I.O. SI Soumen Kr. Nath took up its investigation......"*

13. In ***Mohammad Wajid & Anr. vs State of U.P. & Ors., in criminal appeal no. 2340 of 2023 (arising out of SLP (Criminal) No. 10656 of 2022), on 8 August, 2023,*** the Supreme Court held:-

> *"**24.** An offence under Section 503 has following essentials:-*
> *1) Threatening a person with any injury;*
> *(i) to his person, reputation or property; or*
> *(ii) to the person, or reputation of any one in whom that person is interested.*
> *2) The threat must be with intent;*
> *(i) to cause alarm to that person; or*
> *(ii) to cause that person to do any act which he is not legally bound to do as the means of avoiding the execution of such threat; or*
> *(iii) to cause that person to omit to do any act which that person is legally entitled to do as the means of avoiding the execution of such threat.*
> ***25.** Section 504 of the IPC contemplates intentionally insulting a person and thereby provoking such person insulted to breach the peace or intentionally insulting a person knowing it to be likely that the person insulted may be provoked so as to cause a breach of the public peace or to commit any other offence. Mere abuse may not come within the purview of the section. But, the words of abuse in a particular case might amount to an intentional insult provoking the person insulted to commit a breach of the public peace or to commit any other offence. If abusive language is used intentionally and is of such a nature as would in the ordinary course of events lead the person insulted to break the peace or to commit an offence under the law, the case is not taken away from the purview of the Section merely because the insulted person did not actually break the peace or commit any offence having exercised selfcontrol or having been subjected to abject terror by the offender. In judging whether particular abusive language is attracted by Section 504, IPC, the*

court has to find out what, in the ordinary circumstances, would be the effect of the abusive language used and not what the complainant actually did as a result of his peculiar idiosyncrasy or cool temperament or sense of discipline. It is the ordinary general nature of the abusive language that is the test for considering whether the abusive language is an intentional insult likely to provoke the person insulted to commit a breach of the peace and not the particular conduct or temperament of the complainant.

26. *Mere abuse, discourtesy, rudeness or insolence, may not amount to an intentional insult within the meaning of Section 504, IPC if it does not have the necessary element of being likely to incite the person insulted to commit a breach of the peace of an offence and the other element of the accused intending to provoke the person insulted to commit a breach of the peace or knowing that the person insulted is likely to commit a breach of the peace. Each case of abusive language shall have to be decided in the light of the facts and circumstances of that case and there cannot be a general proposition that no one commits an offence under Section 504, IPC if he merely uses abusive language against the complainant. In King Emperor v. Chunnibhai Dayabhai, (1902) 4 Bom LR 78, a Division Bench of the Bombay High Court pointed out that:-*

"To constitute an offence under Section 504, I.P.C. it is sufficient if the insult is of a kind calculated to cause the other party to lose his temper and say or do something violent. Public peace can be broken by angry words as well as deeds."

(Emphasis supplied)

27. *A bare perusal of Section 506 of the IPC makes it clear that a part of it relates to criminal intimidation. Before an offence of criminal intimidation is made out, it must be established that the accused had an intention to cause alarm to the complainant.*

30. *At this stage, we would like to observe something important. Whenever an accused comes before the Court invoking either the inherent powers under Section 482 of the Code of Criminal Procedure (CrPC) or extraordinary jurisdiction under Article 226 of the Constitution to get the FIR or the criminal proceedings quashed essentially on the ground that such proceedings are manifestly frivolous or vexatious or instituted with the ulterior motive for wreaking vengeance, then in such circumstances the Court owes a duty to look into the FIR with care and a little more* *closely. We say so because once the complainant decides to proceed against the accused with an ulterior motive for wreaking personal vengeance, etc., then he would ensure that the FIR/complaint is very well drafted with all the necessary pleadings. The complainant would ensure that the averments made in the FIR/complaint are such that they disclose the necessary ingredients to constitute the alleged offence. Therefore, it will not be just enough for the Court to look into the averments made in the FIR/complaint alone for the purpose of ascertaining whether the necessary ingredients to constitute the alleged offence are disclosed or not. In frivolous or vexatious proceedings, the Court owes a duty to look into many other attending circumstances emerging from the record of the case over and above the averments and, if need be, with due care and circumspection try to read in between the lines. The Court while exercising its jurisdiction under Section 482 of the CrPC or Article 226 of the Constitution need not restrict itself only to the stage of a case but is empowered to take into account the overall circumstances leading to the initiation/registration of the case as well as the materials collected in the course of investigation. Take for instance the case on hand. Multiple FIRs have been registered over a period of time. It is in the background of such circumstances the registration of multiple FIRs assumes importance, thereby attracting the issue of wreaking vengeance out of private or personal grudge as alleged.*

31. *In State of Andhra Pradesh v. Golconda Linga Swamy, (2004) 6 SCC 522, a two-Judge Bench of this Court elaborated on the types of materials the High Court can assess to quash an FIR. The Court drew a fine distinction between consideration of materials that were tendered as evidence and appreciation of such evidence. Only such material that manifestly fails to prove the accusation in the FIR can be considered for quashing an FIR. The Court held:-*

"5. …Authority of the court exists for advancement of justice and if any attempt is made to abuse that authority so as to produce injustice, the court has power to prevent such abuse. It would be an abuse of the process of the court to allow any action which would result in injustice and prevent promotion of justice. In exercise of the powers court would be justified to quash any proceeding if it finds that initiation or continuance of it amounts to abuse of the process of court or quashing of these proceedings

would otherwise serve the ends of justice. When no offence is disclosed by the complaint, the court may examine the question of fact. ***When a complaint is sought to be quashed, it is permissible to look into the materials to assess what the complainant has alleged and whether any offence is made out even if the allegations are accepted in toto.***

6. In R.P. Kapur v. State of Punjab, AIR 1960 SC 866 : 1960 Cri LJ 1239, this Court summarised some categories of cases where inherent power can and should be exercised to quash the proceedings : (AIR p. 869, para 6)

(i) where it manifestly appears that there is a legal bar against the institution or continuance e.g. want of sanction;

(ii) where the allegations in the first information report or complaint taken at its face value and accepted in their entirety do not constitute the offence alleged;

(iii) ***where the allegations constitute an offence, but there is no legal evidence adduced or the evidence adduced clearly or manifestly fails to prove the charge.***

7. ***In dealing with the last category, it is important to bear in mind the distinction between a case where there is no legal evidence or where there is evidence which is clearly inconsistent with the accusations made, and a case where there is legal evidence which, on appreciation, may or may not support the accusations. When exercising jurisdiction under Section 482 of the Code, the High Court would not ordinarily embark upon an enquiry whether the evidence in question is reliable or not or whether on a reasonable appreciation of it accusation would not be sustained. That is the function of the trial Judge.*** *Judicial process, no doubt should not be an instrument of oppression, or, needless harassment. Court should be circumspect and judicious in exercising discretion and should take all relevant facts and circumstances into consideration before issuing process, lest it would be an instrument in the hands of a private complainant to unleash vendetta to harass any person needlessly. At the same time the section is not an instrument handed over to an accused to short-circuit a prosecution and bring about its sudden death.....”*

(Emphasis supplied)

DELAY IN LODGING THE FIR

32. *The alleged incident is said to have occurred sometime in the year 2021. There is no reference to any date or time of the incident in the FIR. The allegations are too vague and general. Had it been the case of prompt registration of the FIR, probably the police might have been able to recover Rs. 2 Lakh from the possession of the accused persons alleged to have been forcibly taken away from the pocket of the first informant. The FIR also talks about a document on which the first informant and his brother were forced to put their signatures. We wonder, whether the investigating agency was in a position to collect or recover any such document from the accused persons containing their signatures in the course of the investigation, more particularly when the State says that the investigation is over and the charge sheet is also ready. In the absence of all this material, how is the State going to prove its case against the accused persons. The FIR in a criminal case is an extremely vital and valuable piece of evidence for the purpose of corroborating the oral evidence adduced at the trial. The object of insisting upon lodging of the FIR to the police in respect of commission of an offence is to obtain early information regarding the circumstances in which the crime was committed, the names of the actual culprits and the part played by them as well as names of the eye witnesses present at the scene of occurrence.*

33. *In the aforesaid context, we may clarify that delay in the registration of the FIR, by itself, cannot be a ground for quashing of the FIR. However, delay with other attending circumstances emerging from the record of the case rendering the entire case put up by the prosecution inherently improbable, may at times become a good ground to quash the FIR and consequential proceedings. If the FIR, like the one in the case on hand, is lodged after a period of more than one year without disclosing the date and time of the alleged incident and further without any plausible and convincing explanation for such delay, then how is the accused expected to defend himself in the trial. It is altogether different to say that in a given case, in the course of investigation the investigating agency may be able to ascertain the date and time of the incident, etc. The recovery of few incriminating articles may also at times lend credence to the allegations levelled in the FIR. However, in the absence of all such materials* *merely on the basis of vague and general allegations levelled in the FIR, the accused cannot be put to trial.*

34. *The learned Additional Advocate General appearing for the State vehemently submitted that considering the gross criminal antecedents of the appellants before us, the criminal proceedings may not be quashed. The learned Additional Advocate General appearing for the State in her written submissions has furnished details in regard to the antecedents of the appellants. A bare look at the chart may give an impression that the appellants are history sheeters and hardened criminals. However, when it comes to quashing of the FIR or criminal proceedings, the criminal antecedents of the accused cannot be the sole consideration to decline to quash the criminal proceedings. An accused has a legitimate right to say before the Court that howsoever bad his antecedents may be, still if the FIR fails to disclose commission of any offence or his case falls within one of the parameters as laid down by this Court in the case of Bhajan Lal (supra), then the Court should not decline to quash the criminal case only on the ground that the accused is a history sheeter. Initiation of prosecution has adverse and harsh consequences for the persons named as accused. In Directorate of Revenue and another v. Mohammed Nisar Holia, (2008) 2 SCC 370, this Court explicitly recognises the right to not to be disturbed without sufficient grounds as one of the underlying mandates of Article 21 of the Constitution. Thus, the requirement and need to balance the law enforcement power and protection of citizens from injustice and harassment must be maintained. It goes without saying that the State owes a duty to ensure that no crime goes unpunished but at the same time it also owes a duty to ensure that none of its subjects are unnecessarily harassed.*

35. *In the overall view of the matter, we are convinced that the continuation of the criminal case arising from the FIR No. 224 of 2022 registered at Mirzapur Police Station, Saharanpur will be nothing but abuse of the process of the law. In the peculiar facts and circumstances of this case, we are inclined to accept the case put up on behalf of the appellants herein.*

36. *In the result, this appeal succeeds and is hereby allowed. The impugned order passed by the High Court of Judicature at Allahabad is hereby set aside. The criminal proceedings arising from FIR No. 224 of 2022 dated 19.09.2022 registered at Police Station Mirzapur, Saharanpur, State of U.P. are hereby quashed.*

> ***37.*** *It is needless to clarify that the observations made in this judgment are relevant only for the purpose of the FIR in question and the consequential criminal proceedings. None of the observations shall have any bearing on any of the pending criminal prosecutions or any other proceedings."*

14. 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.*
>
> ***16.*** *It is not necessary for this Court to go into the question of whether there was any direct or indirect act of incitement to the offence of abetment of suicide, since the High Court has not gone into that question. Suffice it to mention that even an indirect act of incitement to the commission of suicide would constitute the offence of abetment of suicide under Section 306 of the IPC.*
>
> ***20.*** *In the aforesaid judgment, the High Court referred to an order dated 6 th December 2019 passed by a three Judge Bench of this Court in Crl. Appeal No.1852 of 2019 (**New India Assurance Co. Ltd. v. Krishna Kumar Pandey**) where this Court held that in a revision arising out of conviction, the High Court could not have sealed the right of the employer to take disciplinary action against the accused for misconduct in accordance with the Service Rules.*
>
> ***21.*** *In **Krishna Kumar Pandey** (supra) this Court referred with approval, to the judgment of this Court in **State of Punjab v. Davinder Pal Singh Bhullar and Ors.** where this Court held that the High Court was not denuded of inherent power to recall a judgment and/or order which was without jurisdiction, or in violation of*

principles of natural justice, or passed without giving an opportunity of hearing to a party affected by the order or where an order was obtained by abusing the process of Court which would really amount to its being without jurisdiction. Inherent powers can be exercised to recall such orders.

24. *Be that as it may, since the initial order dated 20th October 2020 is also under challenge in these appeals, it is really not necessary for this Court to delve deeper into the question of whether a final order passed under Section 482 of the Cr.P.C. quashing an FIR could have, at all, been recalled by the High Court, in the absence of any specific provision in the Cr.P.C. for recall and/or review of such order. The High Court has, in effect, held that in exceptional circumstances, such orders can be recalled, in exercise of the inherent power of the High Court, to prevent injustice.*

25. *The only question in this appeal is whether the Criminal Miscellaneous Applications filed by the accused under Section 482 of the Cr.P.C. could have been allowed and an FIR under Section 306 of the IPC for abetment to commit suicide, entailing punishment of imprisonment of ten years, could have been quashed on the basis of a settlement between the complainant and the accused named in the FIR. The answer to the aforesaid question cannot, but be in the negative.*

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 definedby 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 thestatements 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 patentlyabsurd 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 inissuing 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 legaldefects, 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 isonly 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 threeJudge 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 laiddown, 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 inrefusing 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."*

15. The Supreme Court in ***Gian Singh Vs. State of Punjab, AIR 2012 SC (Cri) 1796,*** it was held:-

"57. *The position that emerges from the above discussion can be summarised thus: the power of the High Court in quashing a criminal proceeding or FIR or complaint in exercise of its inherent jurisdiction is distinct and different from the power given to a criminal court for compounding the offences under Section 320 of the Code. Inherent power is of wide plenitude with no statutory limitation* ***but it has to be exercised in accord with the guideline engrafted in such power viz; (i) to secure the ends of justice or (ii) to prevent abuse of the process of any Court.*** *In what cases power to quash the criminal proceeding or complaint or F.I.R may be exercised where the offender and victim have settled their dispute would depend on the facts and circumstances of each case and no category can be prescribed. However, before exercise of such power, the High Court must have due regard to the nature and gravity of the crime. Heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. cannot be fittingly quashed even though the victim or victim's family and the offender have settled the dispute. Such offences are not private in nature and have serious impact on society. Similarly, any compromise between the victim and offender in relation to the offences under special statutes like*

> *Prevention of Corruption Act or the offences committed by public servants while working in that capacity etc; cannot provide for any basis for quashing criminal proceedings involving such offences. But the criminal cases having overwhelmingly and pre-dominatingly civil flavour stand on different footing for the purposes of quashing, particularly the offences arising from commercial, financial, mercantile, civil, partnership or such like transactions or the offences arising out of matrimony relating to dowry, etc. or the family disputes where the wrong is basically private or personal in nature and the parties have resolved their entire dispute. In this category of cases, High Court may quash criminal proceedings if in its view, because of the compromise between the offender and victim, the possibility of conviction is remote and bleak and continuation of criminal case would put accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case despite full and complete settlement and compromise with the victim. In other words, the High Court must consider whether it would be unfair or contrary to the interest of justice to continue with the criminal proceeding or continuation of the criminal proceeding would tantamount to abuse of process of law despite settlement and compromise between the victim and wrongdoer and whether to secure the ends of justice, it is appropriate that criminal case is put to an end and if the answer to the above question(s) is in affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding."*

16. In the cases before this Court, Bank account details of the accused persons have been collected. Statements of purchasers of the said lands recorded under Section 164 Cr.P.C. shows that prima facie there has been transaction of money in the present case, (allegedly) fraudulently transferring land vested with the Government and the investigation in this case is required to be an extensive one considering the huge transfer of Government land on the basis of prima facie **false and fabricated documents** and as such interfering in such a proceedings/investigation will be sheer abuse of the process of law.

17. CRR 3244 of 2023 with CRR 4421 of 2023 with CRR 1947 of 2024 with CRR 1950 of 2024 are thus dismissed.

18. All connected applications, if any, stand disposed of.

19. Interim order, if any, stands vacated.

20. Copy of this judgment be sent to the learned Trial Court for necessary compliance.

21. Urgent Photostat certified copy of this judgment, if applied for, be supplied to the parties expeditiously after due compliance.

(Shampa Dutt (Paul), J.)