

IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION
Appellate Side

Present:

The Hon'ble Justice Ajay Kumar Gupta

C.R.R. 2796 of 2009

With

CRAN 8 of 2025

Jiten Chowbey

Versus

The State of West Bengal & Anr.

For the Petitioner : Mr. Dipankar Dandapath, Adv.

For the Opposite Party No. 2 : Ms. Puja Goswami, Adv.

For the State : Mr. Avishek Sinha, Adv.

Heard on : 28.03.2025

Judgment on : 07.05.2025

Ajay Kumar Gupta, J:

1. This is an application under Section 482 of the Code of Criminal Procedure, 1973 filed by the petitioner challenging the Impugned Judgment and Order dated 23.06.2009 passed by the Learned Additional Sessions Judge, Fast Track Court – II, Sealdah in Criminal Appeal No. 5 of 2009 thereby affirmed the Judgment and Order of conviction dated 30.12.2008 passed by the Learned Judicial Magistrate, 1st Court, Sealdah in G.R. Case No. 1144/02 arising out of Phulbagan Police Station Case No. 91 dated 13.06.2002 sentencing him to suffer simple imprisonment for six months and to pay a fine of Rs. 10,000/-, in default, to suffer simple imprisonment for two months for commission of offence under Sections 324/34 of the Indian Penal Code, 1860.

2. The brief facts of the case are essential for the purpose of disposal of this case as under: -

2a. The opposite party no. 2 lodged an FIR with the Officer-in-Charge, Phulbagan Police Station on 13.06.2006 being Phulbagan Police Station Case No. 91 dated 13.06.2002 under Sections 324/114 of the Indian Penal Code against the petitioner alleging, *inter alia*, that on 09.06.2002 at about 11.20 hours, the petitioner and some others had assaulted the opposite party no. 2 with fists and blows as

well as attacked him with a razor causing bleeding injury on his person.

2b. After culmination of investigation, the Investigating Officer submitted the charge sheet and charges were framed against the petitioner for commission of an offence punishable under Sections 324/34 of the IPC.

2c. The Learned Judicial Magistrate, 1st Court, Sealdah upon considering the evidence, perusing the materials on record and hearing the submissions of the parties, was pleased to deliver judgment and order of conviction dated 30.12.2008 under Sections 324/34 of the IPC and sentenced the petitioner as aforesaid.

2d. Being aggrieved by and dissatisfied with the said judgment and order of conviction and sentence dated 30.12.2008, the petitioner preferred an appeal before the Learned Additional Sessions Judge, Fast Track Court – II, Sealdah being Criminal Appeal No. 5 of 2009. However, upon hearing the appeal, the Learned Judge was pleased to dismiss the appeal by a judgment and order dated 23.06.2009 and affirmed the judgment of the Trial Court.

2e. Feeling aggrieved by the said judgment and order dated 23.06.2009, the petitioner filed this Criminal Revisional application. Hence, this application.

3. Learned counsel appearing on behalf of the petitioner vehemently argued and submitted that the Learned Trial Court as well as Learned Appellate Court failed to properly appreciate the evidence on record and without applying judicious mind convicted the accused person/Petitioner. It was further submitted that the petitioner is innocent and he has been falsely implicated in the instant case. Apart from the above submission, learned counsel further drew attention to this Court that the injured person himself came forward and reconciled with the petitioner. They have interacted amicably and the injured person being de-facto complainant has expressed his desire not to pursue the case any further and does not wish for the petitioner to be convicted.

4. Learned counsel appearing on behalf of the opposite party no. 2/de-facto complainant also conceded the same and further submitted that the Petitioner is his distant relative and he is the only bread earner of his family. He earns minimum income as a daily labour and is responsible for maintaining his family members. Learned counsel candidly submitted that his client is not willing to proceed with the case any further and also does not want any conviction of the petitioner as such he agreed for compromise and filed joint compromise application with a prayer for quashing the impugned Judgment and Order arising out of the G.R. Case No.

1144/2002 in connection with Phulbagan Police Station Case No. 91 dated 13.06.2002 under Sections 324/34 of the Indian Penal Code.

5. Learned counsel appearing on behalf of the State submitted that though the sections are not compoundable but it is within the discretion of the Hon'ble Court to consider such prayer even at the stage of post-conviction as the alleged offence committed by the petitioner is of a personal nature and if the de-facto complainant/injured person himself does not want to proceed with the case and signed the joint compromise petition without any threat, coercion and any undue influences. After all, both petitioner and de-facto complainant are distant relatives and, hence, the compromise may be accepted in the interest of justice.

6. Heard the submission of the parties and upon perusal of the judgment and order dated 23.06.2009 passed by the Learned Judge, it appears that the judgment and order of conviction under Sections 324/34 of the IPC passed by the Learned Trial Court has been confirmed by the Learned Judge. Be that as it may, both the Petitioner and de-facto complainant during pendency of this case arrived at a settlement and jointly filed a compromise application praying for quashing of the proceeding on the ground of compromise as they are firstly, distant relatives. Secondly, the Petitioner is a daily labour and earns minimum daily wages. Being the sole bread earner,

he is maintaining his family members, therefore, the de-facto complainant does not want him to be convicted for their better life and further wishes a happy and undisrupted life to the Petitioner.

7. Now, the question arises to be answered whether post-conviction of the petitioner under Sections 324/34 of the IPC can be quashed on the ground of compromise between the parties and joint application filed by the parties in exercise of inherent power as granted under Section 482 of the CrPC?

8. In several cases the Hon'ble Supreme Court and the Hon'ble High Courts have quashed the proceedings though some of the offences were found non-compoundable in view of the settlement arrived at by the parties because after settlement it would be difficult on the part of prosecution to prove the case and possibility of conviction became remote and bleak.

9. In addition, this Court also considers the alleged offences are not heinous offences showing extreme depravity nor are they against the society and the offences are personal in nature and burying the disputes and differences would bring peace and harmony between the parties.

10. A Larger Bench of the Hon'ble Supreme Court in **Gian Singh V. State of Punjab and Another**¹ considered the relevant provisions of the Code and held as under: -

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

¹ (2012) 10 Supreme Court cases 303

and have a serious impact on society. Similarly, any compromise between the victim and the offender in relation to the offences under special statutes like the Prevention of Corruption Act or the offences committed by public servants while working in that capacity, etc.; cannot provide for any basis for quashing criminal proceedings involving such offences. But the criminal cases having overwhelmingly and 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. In this category of cases, the High Court may quash the criminal proceedings if in its view, because of the compromise between the offender and the victim, the possibility of conviction is remote and bleak and continuation of the criminal case would put the accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case despite full and complete settlement and compromise with the victim. In other words, the High Court must consider whether it would be unfair or contrary to the interest of justice to continue with the criminal proceeding or continuation of the criminal proceeding would

tantamount to abuse of process of law despite settlement and compromise between the victim and the wrongdoer and whether to secure the ends of justice, it is appropriate that the criminal case is put to an end and if the answer to the above question(s) is in the affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding.

(Emphasis supplied)”

11. In ***Ramgopal & Anr. Vs. The State of Madhya Pradesh***², the Hon’ble Supreme Court categorically held in paragraph nos. 13, 14 and 15 as under: -

“13. It appears to us those criminal proceedings involving non-heinous offences or where the offences are pre-dominantly of a private nature, can be annulled irrespective of the fact that trial has already been concluded or appeal stands dismissed against conviction. Handing out punishment is not the sole form of delivering justice. Societal method of applying laws evenly is always subject to lawful exceptions. It goes without saying, that the cases where compromise is struck post-conviction, the High Court ought to exercise such discretion with rectitude, keeping in view the circumstances surrounding the

² [2021] 6 S.C.R. 249

*incident, the fashion in which the compromise has been arrived at, and with due regard to the nature and seriousness of the offence, besides the conduct of the accused, before and after the incidence. The touchstone for exercising the extra-ordinary power under Section 482 Cr.P.C. would be to secure the ends of justice. There can be no hard and fast line constricting the power of the High Court to do substantial justice. A restrictive construction of inherent powers under Section 482 Cr.P.C. may lead to rigid or specious justice, which in the given facts and circumstances of a case, may rather lead to grave injustice. On the other hand, in cases where heinous offences have been proved against perpetrators, no such benefit ought to be extended, as cautiously observed by this Court in **Narinder Singh & Ors. vs. State of Punjab & Ors.**³ and **Laxmi Narayan (Supra)**.*

14. In other words, grave or serious offences or offences which involve moral turpitude or have a harmful effect on the social and moral fabric of the society or involve matters concerning public policy, cannot be construed betwixt two individuals or groups only, for such offences have the potential to impact the society at large. Effacing abominable offences through quashing process would not only send a wrong signal to the community but may also

³ (2014) 6 SCC 466

accord an undue benefit to unscrupulous habitual or professional offenders, who can secure a ‘settlement’ through duress, threats, social boycotts, bribes or other dubious means. It is well said that “let no guilty man escape, if it can be avoided.”

15. Given these settled parameters, the order of the High Court of Madhya Pradesh culminating into Criminal Appeal No. 1489 of 2012, to the extent it holds that the High Court does not have power to compound a non-compoundable offence, is in ignorance of its inherent powers under Section 482 Cr.P.C. and is, thus, unsustainable.

(Emphasis Supplied)”

12. The Hon’ble Supreme Court further held in paragraph no. 19 of the aforesaid judgment as under:

“19. We thus sum-up and hold that as opposed to Section 320 Cr.P.C. where the Court is squarely guided by the compromise between the parties in respect of offences ‘compoundable’ within the statutory framework, the extra-ordinary power enjoined upon a High Court under Section 482 Cr.P.C. or vested in this Court under Article 142 of the Constitution, can be invoked beyond the metes and bounds of Section 320 Cr.P.C. Nonetheless, we reiterate that such powers of wide amplitude ought to be exercised carefully in the context of quashing

criminal proceedings, bearing in mind: (i) Nature and effect of the offence on the conscious of the society; (ii) Seriousness of the injury, if any; (iii) Voluntary nature of compromise between the accused and the victim; & (iv) Conduct of the accused persons, prior to and after the occurrence of the purported offence and/or other relevant considerations.”

13. In the light of the above discussion and guidelines as laid down in the aforesaid judgments, it clearly reveals that exercise of inherent power of the High Court under Section 482 of the CrPC depends on the facts and circumstances of each individual case and no specific category can be prescribed. However, before exercise of such power, the High Court must carefully consider the nature and gravity of the offence. Offences that are heinous in nature and involved mental depravity or offences like murder, rape, dacoity, etc. cannot be fittingly quashed even though the victim or victim's family and the offender have settled the dispute. Such offences are not private in nature and have a serious impact on society. Similarly, any compromise between the victim and the offender in relation to the offences under special statutes like the Prevention of Corruption Act or the offences committed by public servants while working in that capacity, etc.; cannot provide for any basis for quashing criminal proceedings involving such offences.

14. In the present case, the petitioner was convicted under Sections 324/34 of the IPC by the Learned Trial Court and the same was further affirmed by the Learned Judge in appeal. The same is now under consideration of this Court under the revisional jurisdiction under Section 482 of the CrPC.

15. Considering the submission made by the parties and in the light of aforesaid guidelines as laid down by the Hon'ble Supreme Court, this Court is of the opinion that the present case, in hand, can be quashed on the basis of voluntary joint compromise petition filed by the parties on the following reasons:

Firstly, occurrence involved in this case can be categorised as purely personal and between the relatives;

Secondly, criminal proceedings pending before this court is private in nature;

Thirdly, the nature of injuries suffered by the de-facto complainant, for which the petitioner has been convicted is not of such serious in nature that the

quashing of which would override the public interest and peace among the society;

Fourthly, the parties on their own volition, without any coercion or compulsion or undue influence, willingly and voluntarily have buried their differences and wish to accord a quietus to their dispute(s);

Fifthly, the occurrence took place way back in the years 2002. There is nothing on record to show that since then, any untoward incident transpired between the parties;

Sixthly, the cause of administration of criminal justice system would remain un-effected on acceptance of the amicable settlement between the parties and/or resultant acquittal of the Appellant; more so looking at their intention;

Seventhly, at the time of commission of alleged offence the petitioner was young and he had no antecedent of criminal activities;

Eighthly, the petitioner after being convicted has already suffered mental pain and agony due to prolonged trial as well as pendency of the appeal and revision for more than two decades.

Lastly, Criminal Jurisprudence reformatory in nature and aims to bring peace among family, relatives and society. Continuation of criminal proceedings despite voluntary compromise may lead to injustice and ill will.

16. Accordingly, **CRR 2796 of 2009** is, thus, **allowed**. Connected application being **CRAN 8 of 2025** is also, thus, disposed of.

17. Consequentially, this Court is of considered view that it would be appropriate to exercise inherent power under Section 482 of the CrPC and quash the criminal proceedings being Phulbagan Police Station Case No. 91 dated 13.06.2002 corresponding to G.R. Case

No. 1144/02 for securing ends of justice. The judgments and orders passed by the Learned Trial Court as well as Learned Appellate Court are hereby set aside on the basis of joint compromise application filed by the parties voluntarily. Resultantly, the petitioner shall be deemed to have been acquitted from the charged offences for all intents and purposes.

18. Let a copy of this Judgment be sent to the Learned Trial Court for information.

19. Interim order, if any, stands vacated.

20. Case Diary, if any, be returned to the learned counsel for the State.

21. Parties shall act on the server copies of this Judgment uploaded on the official website of this Court.

22. Urgent photostat certified copy of this Judgment, if applied for, is to be given as expeditiously to the parties on compliance of all legal formalities.

(Ajay Kumar Gupta, J)