**IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA**

**Cr. MMO No. 317 of 2026**

**Reserved on: 2.11.2026**

**Date of Decision: 18.11.2026.**

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Gulshan Kumar .... Petitioner

Versus

State of H.P. & ors. .... Respondents

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*Coram*

***Hon'ble Mr Justice Rakesh Kainthla, Judge.***

***Whether approved for reporting?***[1] ***No.***

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| For the Petitioner | : | Mr Angrej Kapoor, Advocate, vice Mr Kuldeep Thakur, Advocate. |
| For Respondents No.1 to 3 | : | Mr Ajit Sharma, Deputy Advocate General. |
| For Respondent No.4 | : | Ms Shivani, Advocate, vice Mr C.S. Thakur, Advocate. |

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***Rakesh Kainthla, Judge***

The petitioner has filed the present petition for quashing of F.I.R. No. 90 of 2022, dated 25.06.2022, registered at Police Station Lambagaon, District Kangra, H.P., for the commission of an offence punishable under Section 429 of the

[1] Whether reporters of Local Papers may be allowed to see the judgment? Yes.

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Indian Penal Code (IPC) and the consequential proceedings arising out of it, based on a compromise between the parties.

2. It has been asserted that the parties have settled the matter with the intervention of respectable persons of the society. The informant/victim does not want to proceed further with the matter after the compromise; hence, the petition.

3. The statement of the informant/victim, Sunil Kumar, was recorded on 19.05.2026, in which he stated that he had entered into a compromise with the petitioner/accused voluntarily, without any influence from any person, and he has no objection to the quashing of the F.I.R. based on the compromise between the parties.

4. The police filed a status report asserting that the charge-sheet was filed before the learned Trial Court against the petitioner/accused for the commission of offences punishable under Sections 429 and 201 of the Indian Penal Code (IPC) and Sections 27 and 30 of the Arms Act.

5. Heard.

6. A perusal of the F.I.R. shows that the informant's bitch was shot by some unknown person. The police investigated

the matter and found that the juvenile in conflict with the law had shot the bitch with the petitioner's licensed revolver. Hence, the police filed the charge-sheet against the petitioner and the juvenile in conflict with the law for taking action against them as per the law.

7. The contents of the status report *prima facie* show that the licensed revolver was used for shooting a domestic pet, which is *prima facie* punishable under Sections 27 and 30 of the Arms Act.

8. It was laid down by the Hon'ble Supreme Court in ***Gian Singh v. State of Punjab, (2012) 10 SCC 303: 2012 SCC OnLine SC 769*** that the jurisdiction to quash the proceedings under section 482 based on the compromise is different from the jurisdiction of compounding under section 320 of CrPC. It was observed:

> "**57.** Quashing of offence or criminal proceedings on the ground of settlement between an offender and victim is not the same thing as compounding of the offence. They are different and not interchangeable. Strictly speaking, the power of compounding offences given to a court under Section 320 is materially different from the quashing of criminal proceedings by the High Court in the exercise of its inherent jurisdiction. In compounding of offences, the power of a criminal court is circumscribed by the

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provisions contained in Section 320. The court is guided solely and squarely thereby. On the other hand, the formation of opinion by the High Court for quashing a criminal offence, 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. However, the ultimate consequence may be acquittal or dismissal of the indictment.

**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 effects on the public and consist of wrongdoing that seriously endangers and threatens the well-being of society, and it is not safe to leave the crime-doer only because he and the victim have settled the dispute amicably or 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 a 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.

**59.** ***B.S. Joshi [(2003) 4 SCC 675: 2003 SCC (Cri) 848], Nikhil Merchant [(2008) 9 SCC 677: (2008) 3 SCC (Cri) 858], Manoj Sharma [(2008) 16 SCC 1: (2010) 4 SCC (Cri) 145]*** and ***Shiji [(2011) 10 SCC 705: (2012) 1 SCC (Cri) 101]*** 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 [(2003) 4 SCC 675: 2003 SCC (Cri) 848], Nikhil Merchant [(2008) 9 SCC 677: (2008) 3 SCC (Cri) 858], Manoj Sharma [(2008) 16 SCC 1: (2010) 4 SCC (Cri) 145]*** and ***Shiji [(2011) 10 SCC 705: (2012) 1 SCC (Cri) 101]*** this Court has compounded the non-compoundable offences indirectly? We do not think so. There does exist a distinction between compounding an offence under Section 320 and quashing a criminal case by the High Court in the 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 the indictment.

**60.** We find no incongruity in the above principle of law and the decisions of this Court in ***Simrikhia [(1990) 2 SCC 437: 1990 SCC (Cri) 327], Dharampal [(1993) 1 SCC 435: 1993 SCC (Cri) 333: 1993 Cri LJ 1049], Arun Shankar Shukla [(1999) 6 SCC 146: 1999 SCC (Cri) 1076: AIR 1999 SC 2554], Ishwar Singh [(2008) 15 SCC 667 : (2009) 3 SCC (Cri) 1153], Rumi***

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***Dhar [(2009) 6 SCC 364 : (2009) 2 SCC (Cri) 1074] and Ashok Sadarangani [(2012) 11 SCC 321]***. The principle propounded in ***Simrikhia [(1990) 2 SCC 437: 1990 SCC (Cri) 327]*** that the inherent jurisdiction of the High Court cannot be invoked to override an express bar provided in law is now well settled. In ***Dharampal [(1993) 1 SCC 435: 1993 SCC (Cri) 333: 1993 Cri LJ 1049],*** the Court observed the same thing: that the inherent powers under Section 482 of the Code cannot be utilised for exercising powers which are expressly barred by the Code. A similar statement of law is made in ***Arun Shankar Shukla [(1999) 6 SCC 146: 1999 SCC (Cri) 1076: AIR 1999 SC 2554]***. In ***Ishwar Singh [(2008) 15 SCC 667: (2009) 3 SCC (Cri) 1153],*** the accused was alleged to have committed an offence punishable under Section 307 IPC and, with reference to Section 320 of the Code, it was held that the offence punishable under Section 307 IPC was not compoundable and there was an express bar in Section 320 that no offence shall be compounded if it is not compoundable under the Code. In ***Rumi Dhar [(2009) 6 SCC 364: (2009) 2 SCC (Cri) 1074]*** although the accused had paid the entire due amount as per the settlement with the bank in the matter of recovery before the Debts Recovery Tribunal, the accused was being proceeded with for the commission of the offences under Sections 120-B/420/467/468/471 IPC along with the bank officers who were being prosecuted under Section 13(2) read with 13(1)(*d*) of the Prevention of Corruption Act. The Court refused to quash the charge against the accused by holding that the Court would not quash a case involving a crime against society when a prima facie case has been made out against the accused for framing the charge. ***Ashok Sadarangani [(2012) 11 SCC 321]*** was again a case where the accused persons were charged of having committed the offences under Sections 120-B, 465, 467, 468 and 471 IPC and the allegations were that the accused secured the credit facilities by submitting forged property documents as collaterals and utilised such facilities in a dishonest and fraudulent manner by opening letters of credit in respect of foreign supplies of goods, without actually bringing any

goods but inducing the bank to negotiate the letters of credit in favour of foreign suppliers and also by misusing the cash-credit facility. The Court was alive to the reference made in one of the present matters and also the decisions in ***B.S. Joshi [(2003) 4 SCC 675: 2003 SCC (Cri) 848], Nikhil Merchant [(2008) 9 SCC 677 : (2008) 3 SCC (Cri) 858]*** and ***Manoj Sharma [(2008) 16 SCC 1 : (2010) 4 SCC (Cri) 145]*** and it was held that ***B.S. Joshi [(2003) 4 SCC 675: 2003 SCC (Cri) 848]*** and ***Nikhil Merchant [(2008) 9 SCC 677 : (2008) 3 SCC (Cri) 858]*** dealt with different factual situation as the dispute involved had overtures of a civil dispute but the case under consideration in ***Ashok Sadarangani [(2012) 11 SCC 321]*** was more on the criminal intent than on a civil aspect. The decision in ***Ashok Sadarangani [(2012) 11 SCC 321]*** supports the view that criminal matters involving overtures of a civil dispute stand on a different footing.

**61.** The position that emerges from the above discussion can be summarised thus: the power of the High Court in quashing a criminal proceeding, FIR or complaint in the 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 accordance 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 the 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 the 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 the victim's family and the offender have settled the dispute. Such

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> 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 a 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 a 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 whether continuation of the criminal proceeding would tantamount to abuse of the 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.

9. It was held in ***State of M.P. v. Laxmi Narayan*, *(2019) 5 SCC 688: 2019 SCC OnLine SC 320*** that the offences punishable under the Arms Act fall within the definition of serious offences

and cannot be quashed based on the compromise. It was observed:

> "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 an overwhelmingly and predominantly civil character, particularly those arising out of commercial transactions or arising out of matrimonial relationships 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 involve heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. Such offences are not private in nature and have a serious impact on society.
>
> 15.3. Similarly, such power is not to be exercised for offences under special statutes like the Prevention of Corruption Act or offences committed by public servants while working in that capacity, which are not to be quashed merely on the basis of a compromise between the victim and the offender;
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> 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 crimes against 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 society cannot be quashed in exercise of powers under Section 482 of the Code, on the*

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*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 whether the incorporation of Section 307 IPC is there for the sake of it or if 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 the injury sustained, whether such injury is inflicted on the vital/delicate parts of the body, the nature of weapons used, etc. However, such an exercise by the High Court would be permissible only after the evidence is collected after investigation, the chargesheet is filed/the charge is framed and/or during the trial. Such an 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 [***Narinder Singh v. State of Punjab, (2014) 6 SCC 466: (2014) 3 SCC (Cri) 54***] should be read harmoniously 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 non-compoundable offences, which are private 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." (Emphasis supplied)

10. In view of the above, it is impermissible to quash the FIR registered under the Arms Act based on a compromise between the parties.

11. The petitioner has concealed the fact that the Arms Act was involved in the present case and filed the petition as if only Section 429 of the IPC was involved. This is a clear attempt to mislead the Court. Hence, the present petition is dismissed with costs of ₹5,000/-, which shall be deposited in the Chief Justice Disaster Relief Fund within one month, failing which steps will be taken to recover it as per the law.

12. The observations made hereinbefore shall remain confined to the disposal of the petition and will have no bearing whatsoever on the merits of the case.

**(Rakesh Kainthla)**
**Judge**

18th November, 2026
(Chander)