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

**BEFORE
HON'BLE SHRI JUSTICE VIJAY KUMAR SHUKLA**

ON THE 12th OF JANUARY, 2023

MISC. CRIMINAL CASE No. 61811 of 2021

BETWEEN:-

1. **SANJAY @ SANJU S/O SHRI KUMCHAND, AGE: 26 YEARS, OCC: STUDENT, R/O: BHAVNA NAGAR KHANDWA ROAD, INDORE (MADHYA PRADESH)**
2. **PRAKASH S/O SHRI TRILOKCHAND, R/O: BHAVNA NAGAR KHANDWA ROAD, INDORE (MADHYA PRADESH)**
3. **RAJU S/O HUKUMCHAND, AGED: 29 YEARS, OCC: LABOUR, R/O: BHAVNA NAGAR KHANDWA ROAD, INDORE (MADHYA PRADESH)**
4. **TRILOK S/O SHRI KARPAN, AGED:48 YEARS, OCC: LABOUR, R/O: BHAVNA NAGAR KHANDWA ROAD, INDORE (MADHYA PRADESH)**

.....APPLICANTS

(BY SHRI SANJAY KUMAR SHARMA - ADVOCATE)

AND

1. **THE STATE OF MADHYA PRADESH STATION HOUSE OFFICER THR. P.S. BHANWARKUAN (MADHYA PRADESH)**
2. **DHANNALAL S/O SHRI PUNNILAL, R/O: 113, BHAWNA NAGAR, KHANDWA ROAD INDORE (MADHYA PRADESH)**
3. **BASUBAI @ BASANTIBAI W/O DHANNALAL, AGE: 68 YEARS, R/O: 113 BHAWNA NAGAR KHANDWA ROAD INDORE (MADHYA PRADESH)**
4. **SANTOSH S/O DHANNALAL AGED: 35 YEARS, OCC: LABOUR, R/O: 113, BHAWNA NAGAR KHANDWA ROAD INDORE (MADHYA PRADESH)**

5. **KARAN S/O SHRI DHANNALAL, AGED: 25 YEARS,
OCC: LABOUR, R/O: 113, BHAWNA NAGAR
KHANDWA ROAD INDORE (MADHYA PRADESH)**

.....RESPONDENTS

*(SHRI GOVIND RAI PUROHIT - GOVT. ADVOCATE FOR RESPONDENT
NO.1/STATE)*

*(SHRI KAILASH CHANDRA KAUSHAL - ADVOCATE FOR RESPONDENTS
NO.2-5)*

.....
*This application coming on for admission this day, the court passed the
following:*

ORDER

This is a petition under Section 482 r/w Section 320(2) of the Code of Criminal Procedure for quashing of Criminal Case No.776/2014 for commission of offences under Section 307, 452, 341, 34 of IPC.

2) The applicants and the complainant filed an application IA No.13222/2022 for compounding. Parties were directed to appear before the Principal Registrar for verification of the compromise. Report has been submitted by the Principal Registrar of High Court that parties have voluntarily compromised the matter and amicably settled the dispute without any threat, inducement and coercion.

3) Counsel for the State submits that the offence under Section 307 of the IPC is non-compoundable under Section 320 of the Cr.P.C.

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

Relevant part of the order of the order reads as under :-

"Quashing of offence or criminal proceedings on the ground of settlement between an offender and victim is not the same

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

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

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

6) In the case of *Daxaben vs. State of Gujarat* (Arising out of SLP (Crl.) No.1132-1155 of 2022), the Apex Court held that the inherent power of the High Court under Section 482 of the Cr.P.C. is wide and can even be exercised to quash criminal proceedings relating to non-compoundable

offences, to secure the ends of justice or to prevent abuse of the process of Court. Where the victim and offender have compromised disputes essentially civil and personal in nature, the High Court can exercise its power under Section 482 of the Cr.P.C. to quash the criminal proceedings.

7) In the case of *Yogendra Yadav & Ors. vs. The State of Jharkhand & Anr.* AIR 2015 SC (Criminal) 166, the Apex Court held as under:-

"Needless to say that offences which are non-compoundable cannot be compound by the Court. Courts draw the power of compounding offences from Section 320 of the Code. The said provision has to be strictly followed (*Gian Singh V. State of Punjab*). However, in a given case, the High Court can quash a criminal proceeding in exercise of its power under Section 482 of the Code having regard to the fact that the parties have amicably settled their disputes and the victim has no objection, even though the offences are non-compoundable. In which cases the High Court can exercise its discretion to quash the proceedings will depend on facts and circumstances of each case. Offences which involve moral turpitude, grave offences like rape, murder etc. cannot be effaced by quashing the proceedings because that will have harmful effect on the society. Such offences cannot be said to be restricted to two individuals or two groups. If such offences are quashed, it may sent wrong signal to the society. However, when the High Court is convinced that the offences are entirely personal in nature and, therefore, do not affect public peace or tranquility and where it feels that quashing of such proceedings on account of compromise would bring about peace and would secure ends of justice, it should not hesitate to quash them. In such cases, the prosecution becomes a lame prosecution. Pursuing such a lame prosecution would be waste of time and energy. That will also unsettle the compromise and obstruct restoration of peace."

8) In *Yogendra Yadav's* case (supra), charges were under Sections 307 & 326 IPC. The apex Court was of the view that the High Court could have exercised its jurisdiction under Section 482 of Cr.P.C. because parties have amicably settled the dispute and the case did not pertain to an offence of moral turpitude or grave offences like rape, murder etc.

9) In the case of *Ramgopla & Anr. vs. State of MP* (Criminal Appeal No.1489/2012, decided on September 29, 2021), the Apex Court held in para12 as under:-

"12. The High Court, therefore, having regard to the nature of the offence and the fact that parties have amicably settled their dispute and the victim has willingly consented to the nullification of criminal proceedings, can quash such proceedings in exercise of its inherent powers under Section 482 Cr.P.C., even if the offences are non compoundable. The High Court can indubitably evaluate the consequential effects of the offence beyond the body of an individual and therefore, adopt a pragmatic approach, to ensure that the felony, even if goes unpunished, does not tinker with or paralyze the very object of the administration of criminal justice system."

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

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

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

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

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

12) On the anvil of the aforesaid enunciation of law, the facts of the present case is examined. In the present case, the accused persons and the complainants belong to the same family and they are residents of the same village. The parties have stated that they belong to the same community and family and on the intervention of the community members and family members, they have amicably settled their dispute and are living peacefully. The incident had taken place in year 2014.

13) Considering the aforesaid facts and taking into consideration the settlement between the accused persons and the complainant that they have amicably settled their dispute and are leading peaceful life, no purpose would be served in continuing the criminal proceedings after a period of more than 8 years.

14) In view of the above, the application under Section 482 Cr.P.C. is allowed and the proceedings of Sessions Trial No.34/2015 pending before the Additional Sessions Judge, Indore is quashed.

CC as per rules.

(VIJAY KUMAR SHUKLA)
JUDGE

