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CRA-1140-2022

IN THE HIGH COURT OF MADHYA PRADESH  
AT INDORE

BEFORE

HON'BLE SHRI JUSTICE PREM NARAYAN SINGH

ON THE 9<sup>th</sup> OF JANUARY, 2025CRIMINAL APPEAL No. 1140 of 2022*BABU SINGH**Versus**THE STATE OF MADHYA PRADESH*

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Appearance:

Shri Lakhan Singh Chandel - advocate for the petitioner.

Shri H.S.Rathore - Govt. Advocate for the respondent/State.

Shri Shabana Azmi - advocate for the respondent [OBJ].

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Reserved On: 05.12.2024

Delivered On: 09.01.2025

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JUDGEMENT

This criminal appeal is preferred under section 374 of Cr.P.C. by the appellant being aggrieved by the judgment dated 25.01.2022, passed by Tenth Additional Sessions Judge, Indore, District Indore (M.P.), in S.T. No.1271/2012 whereby appellant has been convicted for the offence punishable under Sections 420, 467, 468 of IPC, 1860 and sentenced to undergo 7 years, 10 years and 7 years R.I. with fine of Rs.25,000/-, Rs.50,000/- and Rs.25,000/- respectively and usual default stipulations.

2. Prosecution case in nutshell is that on 27.07.2012, complainants Hullas Jain (P.W.3) and Mahendra Jain (P.W.4) filed a written complaint (Ex.P.11) that



on 18.07.2011 appellant Babusingh pretending himself as the owner of property ad-measuring 1.681 acre of land situated at Indore bearing survey Nos.278/1/1, 121/2, 305/02 entered into an agreement of sale with the complainant Mahendra Jain (P.W.4) and in return total amount of Rs.18,00,000/- was paid to appellant by Mahendra Jain vide two ICICI Bank cheques dated 10.07.2011, 20.07.2011 for Rs.1,50,000/- & Rs.5,50,000/- respectively and cash of Rs.11,00,000/-, for sale consideration. Thereafter on the same day appellant appointed complainant Hullas Jain (P.W.3) as common agent and executed a registered Power of Attorney on the basis of which Hullas Jain discharged the land bearing survey No.278/1/1 in favour of Mahendra Jain. It is further alleged that on 29.05.2012 when Mahendra Jain tried to execute the aforesaid sale deed, it was found the said land was already sold to one Kannaiyalal via sale deed dated 27.11.2009. It was also revealed that the same land was also sold to other three persons namely Smt. Chetna W/o. Dharmendra Gangwal (P.W.14), Dharmendra S/o. Sohanlal and Jitendra S/o. Sohanlal vide registration dated 12.05.2009. Other survey nos.121/02 and 305/02 were also found to be already sold to Kannaiyalal vide registration dated 26.03.2011. Thus appellant committed forgery with the complainants by selling the land already sold to some other person and took money from the complainants to the tune of Rs.18,00,000/-. On the basis of which FIR was registered as crime No.308/2012 at Police Station Kudel, District Indore against the appellant.

3. During investigation, requisite documents such as forged sale deeds, I.D. cards, bank account statements etc., were recovered. The statement of witnesses were recorded under Section 161 of Cr.P.C. After completion of investigation, charge-sheet was filed under Sections 420, 467, 468 of IPC, 1860. The matter was committed to the Court of sessions.



4. The learned trial Court, after considering the evidence and material available on record has convicted the appellant, as stated above in para No. 1 of this order.

5. Before this Court, both the parties have filed applications for compounding the offences.

6. The said applications were sent for verification before the Principal Registrar vide order dated 11.11.2024. In compliance of the said order, the compromise was verified vide report dated 25.11.2024 in which it is mentioned that accused/appellant and the complainants have entered into compromise with mutual consent. There is no dispute remaining between the accused/appellant and the complainant.

7. Counsel for the appellant submits that so far as sentence is concerned, the appellant is an old person aged about 72 years and he has already undergone jail sentence of **approximately more than two year and eight months** and the incident had taken place in the year 2011. It is also submitted that there is no public interest involved in this case and compromise has already been arrived at between the parties and therefore, while maintaining the conviction, the jail sentence may be reduced to the period already undergone by enhancing the fine amount on the basis of compromise.

8. Learned counsel for the respondent/state has opposed the prayer. However, it is fairly admitted that the parties have compromised the matter amicably.

9. Nevertheless, the counsel for the appellant has not impugned the merits of



conviction and confined his arguments on sentencing of the appellant on the basis of compromise application, but still this appellate Court is of the view to examine the sanctity of conviction. On this aspect, I have gone through the order of the trial Court. The prosecution case is not only fortified by the witnesses, but also well supported by documentary evidence adduced before the trial Court. In view of the whole evidence produced by the prosecution, conclusion of learned trial Court regarding conviction appears to be on sound reasoning, it does not warrant any interference.

10. Now coming to the compromise petition with regard to offence under Section 420 of IPC, the same has already been verified, and the offence is compounded with the leave of this Court, so also as there is no public interest involved in the case, the appellant is acquitted from the charges under Section 420 of IPC on the basis of compromise, if any fine amount deposited with regard to this offence, it would be returned accordingly.

11. Now, the Court is turning to the sentencing part of appellant with regard to non-compoundable offence under Section 467 & 468 of IPC and considering the effect of compromise placed by the complainant and appellant. In the case of **Narinder Singh and Ors Vs. State of Punjab And Anr** , 2014 (6) SCC 466 relying on the various judgments, the Apex Court permitted the compounding in a non-compoundable case and quashed the criminal proceedings. The Hon'ble Apex Court in para no.21 has observed as under:-

"21. However, we have some other cases decided by this Court commenting upon the nature of offence under Section 307 of IPC. In **Dimpey Gujral case (supra)**, FIR was lodged under sections 147,148,149,323,307,552 and 506 of the IPC. The matter was investigated and final report was presented to the Court under Section 173 of the Cr.P.C. The trial court had even



framed the charges. At that stage, settlement was arrived at between parties. The court accepted the settlement and quashed the proceedings, relying upon the earlier judgment of this Court in **Gian Singh vs. State of Punjab & Anr. 2012 AIR SCW 5333** wherein the court had observed that inherent powers under section 482 of the Code are of wide plentitude with no statutory limitation and the guiding factors are: (1) to secure the needs of justice, or (2) to prevent abuse of process of the court. While doing so, commenting upon the offences stated in the FIR, the court observed:

“Since the offences involved in this case are of a personal nature and are not offences against the society, we had enquired with learned counsel appearing for the parties whether there is any possibility of a settlement. We are happy to note that due to efforts made by learned counsel, parties have seen reason and have entered into a compromise.” This Court, thus, treated such offences including one under section 307, IPC were of a personal nature and not offences against the society.”

12. On this point, the view of Hon'ble Apex Court in the case of **Unnikrishnan alias Unnikuttan versus State of Kerala reported in (2018) 15 SCC 343** is also worth referring in the context of this case as under:-

"10. In series of decisions i.e. **Bharath Singh vs. State of M.P. and Ors., 1990 (Supp) SCC 62, Ramlal vs. State of J & K, (1999) 2 SCC 213, Puttaswamy vs. State of Karnataka and Anr, (2009) 1 SCC 711**, this Court allowed the parties to compound the offence even though the offence is a non-compoundable depending on the facts and circumstances of each case. In some cases this Court while imposing the fine amount reduced the sentence to the period already undergone."

11. What emerges from the above is that even if an offence is not compoundable within the scope of Section 320 of Code of Criminal Procedure the Court may, in view of the compromise arrive at between the parties, reduce the sentence imposed while maintaining the conviction."

13. Even this Court in Cr.A. No.268/2016 (**Kanha @ Mahesh v/s The State of Madhya Pradesh**) decided on 26.08.2017 as well as in Cr.A. No.561/2010



(Radhakrishnan & 3 Others v/s The State of Madhya Pradesh) decided on 18.04.2017 and in CRA No.604/2000 (Aaram Singh vs. The State of Madhya Pradesh) decided on 08.08.2019, Sohan Jangu & others vs. State of Madhya Pradesh reported as 2023 Lawsuit (MP) 392, Devendra Singh vs. State of M.P. (2023 Lawsuit (MP)781) and *Shravan vs. The State of M.P.* reported as 2024 *Lawsuit (MP) 246* has taken a similar view.

14. In the case of **Ramgopal & 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."

15. On this aspect, the observations of Hon'ble Apex Court rendered in **Jagdish Chanana and others vs. State of Haryana and Another [(2008) 15 SCC 704]**, is also worth to mention here. It is held that in the cases where offences under Sections 419, 420, 465, 468, 469, 471, 472, 474 r/w 34 of IPC are attracted, the FIR can be quashed under Section 482 r/w Section 320 of Cr.P.C. The observations are reproduced here as under:-

"2. This appeal is directed against the order dated 24th July 2006 rejecting the prayer for quashing of FIR No.83



dated 12th March 2005 P.S. City Sonapat registered under Sections 419, 420, 465, 468, 469, 471, 472, 474 read with Section 34 of the IPC.

3. During the pendency of these proceedings in this Court, Crl.Misc.Petition No. 42/2008 has been filed putting on record a compromise deed dated 30th April 2007. The fact that a compromise has indeed been recorded is admitted by all sides and in terms of the compromise the disputes which are purely personal in nature and arise out of commercial transactions, have been settled in terms of the compromise with one of the terms of the compromise being that proceedings pending in court may be withdrawn or compromised or quashed, as the case may be.

4. In the light of the compromise, it is unlikely that the prosecution will succeed in the matter. We also see that the dispute is a purely personal one and no public policy is involved in the transactions that had been entered into between the parties. To continue with the proceedings, therefore, would be a futile exercise. We accordingly allow the appeal and quash FIR No.83 dated 12th March 2005 P.S. City Sonapat and all consequent proceedings."

16. In another case rendered in the case of **Anil Jain and Others vs. State of U.P. and Another [(2015) 15 SCC 707]** wherein the Hon'ble Apex Court set aside the judgment of High Court of Judicature of Allahabad and observed as under:

"In view of the settlement reached between the parties, we allow the prayer and set aside the impugned order dated 11.11.2013 read with order dated 9.12.2013 passed by the High Court of Judicature at Allahabad in Criminal Miscellaneous Application No. 2625 of 2012 and quash the proceedings pursuant to F.I.R. No. 816 of 2009 (Case Crime No. 1068 of 2009 and Criminal Case No. 12175 of 2010 – **State versus Anil Jain & others**), under Sections 420, 467, 468, 471, 406 and 120-B of the Indian Penal Code, 1860 at P.S. Sector 20, NOIDA, District Gautam Budh Nagar (Uttar Pradesh) and any order passed pursuant to the said proceedings. The parties will abide by the settlement."



17. The Hon'ble apex Court in the case of **Central Bureau of Investigation vs. Sadhu Ram Singh & Ors.**, (2017) 5 SCC 350, while considering the exercise of inherent powers under Section 482 and 320 of Cr.P.C., has upheld the quashment of non-compoundable offences, pursuant to settlement arrived at by the parties, holding that exercise of judicial restraint vis-à-vis continuance of criminal proceedings after compromise arrived at between the parties, may amount to abuse of process of Court and futile exercise. Taking into account the law laid down by Hon'ble apex Court, in the opinion of this Court, as the compromise between the parties was arrived at between the parties, thus continuation of the prosecution in such matters will be a futile exercise, which will serve no purpose. Under such a situation, Section 482 of the Cr.P.C. can be justifiably invoked to prevent abuse of process of law and wasteful exercise by the Courts below. More so, offence in question are not against the society, but merely affect the victim.

18. The aforesaid view of Hon'ble Apex Court has been continuously followed by this High Court in catena of cases. The aforesaid view is recently followed by co-ordinate Bench of this Court in the cases of *Sajjan Singh Badoria vs. State of Madhya Pradesh [2024 Law Suit (MP)85]*; *Meharban Singh @ Mahendra Singh vs. State of Madhya Pradesh [2024 Lawsuit (MP) 496]*; *Rohit Gupta vs. State of M.P. [2023 Lawsuit (MP) 893]*; *Ritesh Kumar vs. State of Madhya Pradesh [2024 Lawsuit (MP) 17]*; *Babulal vs. State of M.P. [2023 Lawsuit (MP) 742]*.

19. In the light of the aforesaid judgments, the facts of the present case are examined. The offences as mentioned in the preceding paragraphs has been registered against the appellant by the complainant. The matter is said to be compromised between the parties and dispute has been amicably settled. It is





evident that there is no public interest involved in this case. The alleged offences do not fall within the exception carved out by the apex court in the aforesaid judgments.

20. Similarly in **Tarina Sen vs. Union of India and Anr. 2024 Lawsuit (SC) 881**, relying upon its other judgments, Hon'ble Apex Court has ordained as under:

Relying on the earlier judgments of this Court, we have held that in the matters arising out of commercial, financial, mercantile, civil, partnership or such like transactions or the offences arising out of matrimony relating to dowry, etc. or family disputes where the wrong is basically private or personal in nature and the parties have resolved their entire dispute, the High Court should exercise its powers under Section 482 CrPC for giving an end to the criminal proceedings. We have held that the possibility of conviction in such cases is remote and bleak and as such, the continuation of the criminal proceedings would put the accused to great oppression and prejudice.

21. As the offence under Section 467 & 468 of IPC are not compoundable under Section 320 of the Code of Criminal Procedure, 1973, it is not possible to pass the order of acquittal on the basis of compromise but, it is by now well settled that such a compromise can be taken into account for reduction of sentence. The appellant and the complainant are living in the same society, they are residing happily since last so many years, they want to live with peace, and no public interest is involved in this case, therefore, to meet the ends of justice, the sentence of imprisonment awarded against the appellant under Sections 467 & 468 of IPC may be reduced to the period already undergone.

22. In view of the aforesaid this Court is of the view that while maintaining the conviction under Section 467 & 468 of IPC, the jail sentence under these offences is reduced to the period already undergone by enhancing the fine amount for offence under Section 467 of IPC, from Rs.50,000/- to Rs.75,000/-and for



Section 468 of IPC, from Rs.25,000/- to 50,000/- which will be deposited by the appellant within a period of two months from today.

23. The appellant is in jail. The bail bond of the appellant shall be discharged after depositing the fine amount.

24. If the appellant fails to deposit the fine amount, he will suffer 02 months of simple imprisonment in default and thereafter completion of the same, he shall be released from jail, if not required in any other case.

25. The judgment of learned trial Court regarding disposal of the seized property stands affirmed.

26. A copy of this order be sent to the concerned trial Court for necessary compliance.

27. Pending application, if any shall be closed.

28. With the aforesaid, the present appeal stands disposed off.

Certified copy, as per rules.

**(PREM NARAYAN SINGH)**  
**JUDGE**