

**IN THE HIGH COURT OF MADHYA
PRADESH**

AT INDORE

BEFORE

HON'BLE SHRI JUSTICE SUBODH ABHYANKAR

ON THE 17th OF OCTOBER, 2023

MISC. CRIMINAL CASE No. 31950 of 2023

BETWEEN:-

1. **GYANU @ GYAN SINGH S/O PRATAPBHAN SINGH, AGED ABOUT 32 YEARS, OCCUPATION: STUDENT R/O PANCHWATI COLONY INDORE (MADHYA PRADESH)**

2. **HARENDRA @ BUNTY S/O SHREE MURARI PACHORI, AGED ABOUT 38 YEARS, OCCUPATION: JOB 572, PANCHWATI COLONY, TALWALICHANDA INDORE (MADHYA PRADESH)**

.....PETITIONERS

(BY MS. SAVITA RATHORE, ADVOCATE)

AND

THE STATE OF MADHYA PRADESH STATION HOUSE OFFICER THROUGH POLICE STATION LASUDIYA DISTRICT INDORE (MADHYA PRADESH)

.....RESPONDENT

(BY MS. HARSHLATA SONI, G.A. AND SHRI NEERAJ SIRESIYA ADVOCATE FOR COMPLAINANT)

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This petition coming on for admission this day, the court passed the following:

ORDER

This petition has been filed by the petitioner under Section 482 of the Cr.P.C., for quashing the FIR and the consequent charge-sheet which has been filed against the petitioners at Crime No.1870/2022 registered at Police Station Lasudiya, Indore under Sections 324, 506, 323 and 34 of the Indian Penal Code, 1860 and Section 307 of IPC was also added subsequently.

2] In brief, the facts of the case are that the FIR in the present case was filed on 07.12.2022, at around 17:51 hours in respect of an incident which took place on 06.12.2022, at 19:30 hours. It is alleged in the FIR that the complainant Akshat Goswami s/o.Manoj Goswami, was assaulted by the present petitioners and the other accused Lalit, who happens to be the son of petitioner No.2 Harendra @ Bunty Goswami. It is alleged that on the said day when the complainant had gone to meet one Gyanu along with his friend Priyanshu, at that time, the present petitioners and Lalit also came and started abusing him and also assaulted him. Gyanu assaulted with a stick on the head of the injured, and also on his right eye whereas, Lalit who was a juvenile, assaulted the complainant Akshat goswami with a knife, near his right eye. After the investigation completed, the charge-sheet was filed and admittedly, the parties have entered into a compromise and thus, the application has been filed before the Trial Court under Section 320 of Cr.P.C., which has been rejected by the Trial Court vide its order dated 23.02.2023 wherein, it is stated that the parties have settled the matter amicably and the complainant would also help the petitioners to get the case closed in the concerned

police station. The aforesaid application has not been decided by the Trial Court and subsequently, this Court also allowed the bail application of petitioner Gyanu, on the basis of the aforesaid order of compromise between the parties.

3] Counsel for the petitioners has submitted that the incident took place at the spur of the moment and since both the parties reside in the same locality, and have decided to bury their hatchets, no purpose would be served to further prolong the matter. Thus, it is submitted that the petition be allowed, and the FIR and the consequent charge-sheet be quashed.

4] Counsel for the petitioners has also relied upon a decision rendered by the Supreme Court in the case of **Narinder Singh & Ors. Vs. State of Punjab & Anr.** passed in **Criminal Appeal No.686/2014** as also a decision rendered by the Co-ordinate Bench of this Court in **M.Cr.C. No.61811 of 2021** dated **12.01.2023**, wherein, this Court, while relying upon various decisions of the Supreme Court has quashed the FIR.

5] Counsel for the complainant submits that he has no objection if the petition is allowed.

6] Counsel for the respondent/State, on the other hand, has opposed the prayer and it is submitted that serious injuries have been caused to the complainant, which is also apparent from the opinion given by the doctor, in which it is stated that the complainant has suffered very serious injuries as he has a fracture of orbit, fracture of left maxilla, sinus, extradural hemorrhage in brain, and the injury to eye also could have caused death or permanent disability of the brain.

Thus, it is submitted that in such circumstances when the assault is of such a nature, the application for compounding cannot be allowed and the petition is liable to be dismissed.

7] Heard counsel for the parties and perused the record.

8] So far as the of the powers of High Court u/s.482 of Cr.P.C., in compounding the non-compoundable offences are concerned, in the case of *Gian Singh v. State of Punjab, (2012) 10 SCC 303* the Supreme Court has 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 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 predominately 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)

9] A perusal of the aforesaid decision clearly reveals that there is no straight jacket formula prescribed by the Supreme Court to exercise such powers u/s.482 of Cr.P.C., but it is expected from the High Courts that they must look into the gravity of crime and the effect it may have on the society. Thus, testing the facts of the case at hand on the touchstone of the aforesaid dictum of the Supreme Court, it is found that the main allegations are against Lalit s/o. Harendra who had assaulted with a knife, whereas, it is alleged against the petitioner no.1 Gyanu, that on some trivial issue, he assaulted the complainant Akshat Goswami with a stick on his head, and no overt act is attributed to Harendra except that his son Lalit actively participated in the incident. It is also informed that there are no criminal antecedents against the petitioners. In such facts and circumstances of the case, this court is of the considered opinion that the case against the present petitioner does not fall within the excepted category as prescribed by the Supreme Court in the case of

Gian Singh (supra), and it is a fit case where the parties can be allowed to compound the offence by invoking the powers u/s.482 of Cr.P.C.

10] Accordingly, the application stands allowed and the offences at Crime No.1870/2022, registered at Police Station Lasudiya, Indore under Sections 307, 324, 506, 323 and 34 of the Indian Penal Code, 1860 are hereby allowed to be compounded, with the effect that the petitioners are hereby stand acquitted.

(Subodh Abhyankar)
Judge

Bahar