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

**BEFORE
HON'BLE SHRI JUSTICE PREM NARAYAN SINGH**

ON THE 8th OF JANUARY, 2024

MISC. CRIMINAL CASE No. 46412 of 2023

BETWEEN:-

**RITESH KUMAR S/O SHRI VEDPRAKASH, AGED ABOUT
32 YEARS, OCCUPATION: SERVICE R/O 3-B SHIV NAGAR
MANDINATH BARELI U.P. (UTTAR PRADESH)**

.....APPLICANT

(BY SHRI RAMBAJAD, ADVOCATE)

AND

- 1. THE STATE OF MADHYA PRADESH STATION
HOUSE OFFICER THROUGH POLICE STATION
CRIME BRANCH INDORE (MADHYA PRADESH)**
- 2. RITESH HIRVE S/O PRAKASH HIRVE 12-C,
KRISHNABAG SECTOR-C INDORE (MADHYA
PRADESH)**

.....RESPONDENTS

(BY SHRI SACHIN JAISWAL, PANEL LAWYER)

(BY SHRI NIRAJ CHASTA, LEARNED COUNSEL FOR THE COMPLAINANT)

.....

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

ORDER

Heard finally, with the consent of the parties.

2 . This petition under Section 482 of Cr.P.C. is preferred by the petitioners for quashment of the FIR registered bearing Crime No.36/2023, dated 26.06.2023, registered at Police Station-Crime Branch, District -Indore, under Sections 420, 467, 468 & 471 of IPC and the consequent proceedings arising out of it.

3. As per the prosecution story, the complainant has lodged an FIR by submitting that the complainant was receiving several calls for redeem the RBL Credit Card Reward Points, but he did not pay attention to the calls. On 13.04.2023, an unknown person called the complainant on mobile No. 8338001404 by giving him offer to redeem the reward points of RBL Credit Card and sent a link to the complainant. By clicking on the link and fill up the details, the complainant submitted the form, when the complainant submitted the form, unknown person accessed the complainant's mobile and disbursed the amount of Rs.24,311/- on 13.04.2023 from the Credit Card of the complainant and committed fraud. Hence, the police has lodged the FIR against the petitioner.

4. It is submitted by both parties that during pendency of the case, they have settled their dispute amicably. This Court, vide order dated 01.11.2023, sent the record before the Principal Registrar of this Court for verification of the compromise between the petitioner and complainant/respondent No. 2.

5. As per the verification report dated 03.11.2023 received from the Principal Registrar, both parties have settled their dispute amicably and filed application under Section 320 of Cr.P.C. for compromise vide I.A. Nos.16414/2023 & 16415/2023, an application under Section 320(2) of Cr.P.C. for granting of permission for compromise.

6. Counsel for the parties submit that the matter has been compromised and amicably settled between the parties and now no dispute remains between them. The complainant does not want to prosecute the applicant further.

7. From the face of report, it is clear that the offence under sections 467, 468 and 471 IPC are non-compoundable.

8. 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 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."

9. 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."

10. 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.

11. 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."

12. 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.

3. 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."

13. 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."

14. Further, the Hon'ble apex Court in the case of **Central Bureau of Investigation vs. Sadhu Ram Singh & Ors., (2017) 5 SCC 350**, which is related to the offence under Sections 467, 468, 471 and 120-B of IPC, 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, the 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.

15. 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 on complaint filed by the respondent No.2.** The matter is said to be compromised between the parties and dispute has been amicably settled. The alleged offences do not fall within the exception carved out by the apex court in the aforesaid judgments.

16. From the aforesaid, it appears that the petitioner and the respondent No.2 have amicably settled their dispute and on the factum of compromise, the petitioner prays for quashment of FIR registered bearing Crime No.36/2023, at Police Station-Crime Branch, District -Indore, under Sections 420, 467, 468 & 471 of IPC and the consequent proceedings arising out of it.

17. In view of the aforesaid compromise arrived at between the parties and in the light of the judgment of Hon'ble Supreme Court in the case of **Central Bureau of Investigation (Supra) & Jagdish Chanana (supra)** and upon consideration of the submissions advanced by learned counsel for parties, this Court accepts the prayer for quashment of the FIR.

18. Accordingly, FIR registered against the petitioners bearing Crime No.36/2023, at Police Station-Crime Branch, District -Indore, under Sections 420, 467, 468 and 471 of IPC and the consequent proceedings arising out of it, are hereby quashed

With the aforesaid, the M.Cr.C. stands disposed of.

(PREM NARAYAN SINGH)
JUDGE