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

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

MISC. CRIMINAL CASE No. 50073 of 2023

BETWEEN:-

1. JEETMAL VERMA S/O CHHOTELAL VERMA,
AGED ABOUT 53 YEARS, OCCUPATION: BUSINESS
R/O 45 GAYAKWARD POST DHAR NAKA MHOW
INDORE (MADHYA PRADESH)

2. PANKAJ AGRAWAL S/O LATE RADHEY SHYAM
AGRAWAL, AGED ABOUT 31 YEARS,
OCCUPATION: BUSINESS R/O 15 AGRASEN NAGAR
AIRPORT ROAD INDORE (MADHYA PRADESH)

.....APPLICANT

(BY SHRI SHRI ARPIT SINGH, ADVOCATE)

AND

1. THE STATE OF MADHYA PRADESH STATION
HOUSE OFFICER THROUGH POLICE STATION
DWARKAPURI DISTRICT INDORE MP (MADHYA
PRADESH)

2. DEEPCHAND MALANI S/O LATE MOOLCHAND
MALANI, AGED ABOUT 78 YEARS, OCCUPATION:
SENIOR CITIZEN RETIRED 19 GOPAL BAGH
MANIK BAGH ROAD INDORE (MADHYA
PRADESH)

.....RESPONDENTS

(BY SHRI RAJESH JOSHI, GA FOR THE STATE)

.....
Reserved on: 22.11.2023

Delivered on: 24.11.2023
.....

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

ORDER

1. 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.591/2023, at Police Station Dwarkapuri, District Indore, under Sections 420, 467, 468, 471, & 120-B of IPC and the consequent proceedings arising out of it.

3. As per the prosecution story, the complainant Deepchand has lodged a written complaint by stating that Vidhur Nagar Grah Nirman Sahkaari Sanstha Maryadit, Indore had developed a colony in the name of of Vidhur Nagar at Survey No.223 village Ahirkheddi, Tehsil and District Indore. The society provided membership to the members including one Satnam Singh and one Amar Singh on 20.12.1996 and later on, a plot bearing Plot No.25-A and 25-B were also allotted to them vide allotment letter dated 04.02.1997. Both plots holders have further executed power of attorney in favour of one Dara Singh and in turn, Dara Singh again executed the power of attorney dated 30.08.1997 in favor of one Premkumar, who executed sale deed in favour of complainant on 23.06.2012. It is also mentioned that one Radheshyam had prepared forged allotment letter dated 11.12.1996 and 01.01.1996 with respect to the aforesaid plots and he alongwith one Pankaj Agarwal have illegally occupied the said plots and further they have also executed the sale deed in favour of Jeetmal Verma on the basis of forged and fabricated allotment letters. Hence, the FIR was registered against the petitioners.

4. It is submitted by both the parties that during pendency of the case, they have settled their dispute amicably. This Court, vide order dated 03.11.2023, sent the record before the Principal Registrar of this Court for verification of the compromise between the petitioners and complainant/respondent no.2.

5. As per the verification report dated 06.11.2023 received from the Principal Registrar, both the parties have settled their dispute amicably and filed

applications for compromise vide I.A. No.16842/2023.

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 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 send 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 Sonepat and all consequent proceedings."

13. 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.

14. 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.

15. 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.591/2023, at Police Station Dwarkapuri, District Indore, under Sections 420, 467, 468,

471, & 120-B of IPC and the consequent proceedings arising out of it.

16. In view of the aforesaid compromise arrived at between the parties and in the light of the judgment of Hon'bler Supreme Court in the case of **B.S. Joshi Vs. State of Haryana** and another, reported in **2003(4) SCC 675 & 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.

17. Accordingly, FIR registered against the petitioners bearing Crime No.591/2023, at Police Station Dwarkapuri, District Indore, under Sections 420, 467, 468, 471, & 120-B 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

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