

IN THE HIGH COURT OF MADHYA PRADESH

A T I N D O R E

BEFORE

HON'BLE SHRI JUSTICE SUBODH ABHYANKAR

ON THE 9th OF MAY, 2024

MISC. CRIMINAL CASE No. 16508 of 2024

BETWEEN:-

**BHARAT SINGH S/O VIJAY SINGH, AGED
ABOUT 25 YEARS, JHANDHADPUR P.S.
RAJGARH, DISTT. RAJGARH (MADHYA
PRADESH)**

.....PETITIONER

(BY SHRI RITESH KUMAR SHARMA – ADVOCATE)

AND

**THE STATE OF MADHYA PRADESH
STATION HOUSE OFFICER THROUGH
POLICE STATION RAJGARH RAJGARH
(MADHYA PRADESH)**

.....RESPONDENT

(BY SHRI BHUWAN DESHMUKH – G.A.)

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

ORDER

- 1]** Heard finally, with the consent of the parties.
- 2]** This petition has been filed by the petitioner under Section

482 of Cr.P.C., to enter into a compromise with the complainant's legal heirs after the Criminal Appeal No.662 of 2009 having dismissed by this Court vide its judgement dated 29.09.2022, and the SLP arising therefrom having dismissed as withdrawn.

3] In brief, the facts of the case are that the petitioner has been convicted under Section 307 of IPC in S.T. No.100 of 2008 vide judgement dated 18.06.2009, and sentenced under Section 307 of IPC for four years' R.I., with default stipulations, against which the petitioner preferred a Criminal Appeal No.662 of 2009 before this Court, which was also dismissed by this Court vide its judgement dated 29.09.2022, and the SLP (Criminal) Diary No.12733 of 2023 against the aforesaid judgement, has also been dismissed as withdrawn vide its order dated 01.05.2023.

4] The case of the petitioner is that the complainant in the present case, Dev Chand, has also died on 23.04.2022, and thereafter the legal heirs of the complainant have entered into a compromise with the petitioner as they want to live in peace and harmony, and do not have any feeling of vengeance against each other. Hence the present application has been filed for compounding of the offence.

5] Shri Ritesh Kumar Sharma, learned counsel for the petitioner, in support of his submissions, has also relied upon a decision rendered by the Supreme Court in the case **Ramgopal and another Vs. State of Madhya Pradesh** reported as (2022) **14 SCC 531** wherein the Supreme Court has delineated upon the

powers of the High Court as also of the Supreme Court under Section 482 of Cr.P.C. and Article 142 of the Constitution of India, respectively. Thus, it is submitted that the present petition may be allowed, and the compromise entered between the parties be approved and the petitioner be acquitted.

6] Counsel for the State has opposed the prayer.

7] Heard. On due consideration of submissions and on perusal of the documents filed on record, the facts are not disputed, however, this Court is of the considered opinion that after dismissal of the Cr.A. No.662 of 2009 vide judgement dated 29.09.2022, this Court has become *functus officio* to entertain such subsequent petition.

8] So far as the decision rendered by the Supreme Court in the case of Ramgopal (supra) is concerned, the facts are distinguishable as in that case it was not an issue before the Supreme Court that whether the High Court can exercise its power under Section 482 of Cr.P.C., even after dismissing a criminal appeal. Thus, the aforesaid decision is distinguishable on facts, and even otherwise, this Court is of the considered opinion that after disposing of the criminal appeal finally, the High Court becomes *functus officio* to entertain such a petition for compromise, and if this practice is allowed, this Court would open the flood gates of such unwanted litigation. Even otherwise, Section 362 of Cr.P.C. provides that a Court cannot alter judgement, except to correct a clerical or arithmetical error

9] In view of the same, no case for interference is made out.
The petition being misconceived, is hereby **dismissed**.

(SUBODH ABHYANKAR)
JUDGE

Pankaj