

**HIGH COURT OF MADHYA PRADESH, JABALPUR**

**Misc. Criminal Case No.12107 of 2016**

Sagar Namdeo

Vs.

State of M.P. and another

**Present : Hon'ble Shri Justice Anurag Shrivastava**

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Shri Sunil Kumar Pandey, learned counsel for the applicant.

Shri V.K. Pandey, Panel Lawyer for the respondent No.1/State.

Shri Y.M. Tiwari, learned counsel for the respondent No.2.

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**ORDER**  
**(08.09.2016)**

In this petition filed under Section 482 of Cr.P.C. invoking inherent powers of this Court, applications bearing I.A. No.15808/2016 and No.15809/2016 are moved for compounding of the offences punishable under Sections 341, 354, 354-D, 506 of IPC and Section 3(1-11) of Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989, which is non-compoundable offence as per Section 320 of Cr.P.C.

2. As per prosecution case on 22.03.2015 respondent No.2/complainant (Girl) submitted an application before the Police Station-Lakhnadon alleging therein that the applicant Sagar Namdeo is pressurizing her for marriage and on refusal, he is threatening her as well as her family members

to kill. He used to follow her on way to school and tries to make undue contact with her. When the marriage of complainant is settled and engagement has been made then the applicant threatened the in-laws of complainant and asked them not to marry with complainant. Because of this threatening, they have refused to perform marriage. The complainant belongs to scheduled caste. On the basis of this written complaint, the police registered FIR vide Crime No.128/2015, for the offences punishable under Sections 341, 354, 354-D, 506 of IPC and Section 3(1-11) of SC/ST (Prevention of Atrocities) Act and after completion of investigation, the charge-sheet has been filed and at present, the trial is pending before the Special Judge, (Atrocities) Seoni, bearing Special Case No.32/2015.

3. It is also evident that during pendency of trial the complainant had moved an application under Section 320(2) of Cr.P.C. alongwith a compromise seeking permission to compromise the alleged offences with accused. The trial Court had rejected the application vide order dated 22.02.2016, wherein it has been observed by the Court that at the time of verification of compromise, complainant was weeping, therefore, it appears that she was not voluntarily entered into settlement and compromising the case. Being aggrieved by the impugned order, this petition has been filed.

4. In this Court also the parties have settled all their disputes and want to compromise the matter. I.A. Nos.15808/2016 and No.15809/2016, applications under Section 320(1) and Section 320 (2) of Cr.P.C. have been filed alongwith the affidavits by the parties.

5. As per order of this Court, the contents of compromise has been verified by Registrar (J-I) on 16.08.2016. The complainant has expressed in clear unequivocal terms that disputes have been resolved and she has entered into compromise voluntarily without any fear undue influence or coercion.

6. Since the offences under Section 354, 354-D of IPC and Section 3(1-11) of Atrocities Act, 1989, are non-compoundable therefore, a question arises as to whether or not the proceedings can be quashed on the basis of compromise in non-compoundable offences under a Special Act in particular facts of this case.

7. Learned counsel for the applicant argued that the alleged offences are not of serious nature. Complainant and accused have resolved their differences amicably and they are living peacefully. The settlement would lead to more good; better relations between them, therefore, keeping in view the first offence of applicant, and there is no possibility of conviction in the trial, the inherent power under Section 482 of Cr.P.C. ought to be exercised by the Court for compounding the non-compoundable offences as directed by Hon'ble Supreme Court in ***Narendra Singh Vs. State of Punjab (2014) 6 SCC 466.***

8. Learned Panel Lawyer for the State has vehemently objected to compounding of offences and argued that the offences under SC/ST (Prevention of Atrocities) Act are non-compoundable and also looking to the conduct of applicant/accused, the permission for same should not be granted.

9. It is not disputed that the applicant/accused has been prosecuted in the trial Court for the offences under Sections 341, 354, 354-D, 506 of IPC and Section 3(1-11) of SC/ST (Prevention of Atrocities) Act. The offences under Section 354, 354-D of IPC and Section 3(1-11) of SC/ST (Prevention of Atrocities) Act are non-compoundable. Hon'ble Supreme Court in the case of ***Gian Singh Vs. State of Punjab and another (2012) AIR SCW 533*** held that the power of High Court in quashing a criminal proceedings or FIR or complaint in exercise of its inherent jurisdiction is distinct and different from 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 vis;(i) to secure the ends of justice or (ii) to prevent abuse of the process of any Court. High Court may quash criminal proceedings if in its view, because of the compromise between the offender and victim, the possibility of conviction is remote and bleak and continuation of criminal case would put 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.

10. Now the main question which has to be considered is whether in offences arising under Special Act, whether the power under Section 482 of Cr.P.C. is to be exercised or not? Hon'ble Apex Court in ***Narindra Singh Vs. State of Punjab (2014) 6 SCC 466*** after considering the case law ***Gian Singh*** (Supra) described certain guideline for exercising

inherent powers under Section 482 of Cr.P.C. for compounding of non-compoundable offences. The relevant para 29 contain the directions as below:

*29- In view of the aforesaid discussion, we sum up and lay down the following principles by which the High Court would be guided in giving adequate treatment to the settlement between the parties and exercising its power under Section 482 of the Code while accepting the settlement and quashing the proceedings or refusing to accept the settlement with direction to continue with the criminal proceedings:*

*29.1- Power conferred under Section 482 of Cr.P.C. is to be distinguished from the power which lies in the Court to compound the offences under Section 320 of the Code. No doubt, under Section 482 of the Code, the High Court has inherent power to quash the criminal proceedings even in those cases which are no compoundable, where the parties have settled the matter between themselves. However, this power is to be exercised sparingly and with caution.*

*29.2- When the parties have reached the settlement and on that basis petition for quashing the criminal proceedings is filed, the guiding factor in such cases would be to secure;*

*(i) ends of justice, or  
(ii) to prevent abuse of the process of any court.*

*While exercising the power the High Court is to form an opinion on either of the aforesaid two objectives.*

*29.3- Such a power is not to be exercised in those prosecutions which*

*involve heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. Such offences are not private in nature and have a serious impact on society. Similarly, for the offences alleged to have been committed under special statute like the Prevention of Corruption Act or the offences committed by public servants while working in that capacity are not to be quashed merely on the basis of compromise between the victim and the offender.*

*29.4-On the other hand, those criminal cases having overwhelmingly and predominantly civil character, particularly those arising out of commercial transactions or arising out of matrimonial relationship or family disputes should be quashed when the parties have resolved their entire disputes among themselves.*

*29.5- While exercising its power, the High Court is to examine as to whether the possibility of conviction is remote and bleak and continuation of criminal cases would put the accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal cases;*

11. The Co-ordinate Bench of this Court in ***Ashish Vs. State of M.P. 2016 (2) MPLJ (Criminal) 194*** while considering the compounding of offences punishable under Section 392 IPC r/w Section 11/13 Madhya Pradesh Dakaiti Aur Vyapharan Prabhavit Kshetra Adhinyam, 1981 observed in para 11 and 12 as below:-

*(11) It is noticeable in the case of Narinder Singh (Supra) that in the guidelines contained in para 29.3, the Apex Court held that the offences which fall*

*within the purview of 'special statutes' should not be quashed under section 482, Cr.P.C. Merely because the parties have come to terms and compromise is reached between the accused and victim.*

*(12) The usage of the term 'Special Statute' obviously relates to statutes which have been promulgated by the legislature in regard to certain kind of offences which are though covered by the sweep of the Indian Penal Code but on account of changing social and economic set up have become more menacing thereby requiring specialized forums, procedures and punishments to be dealt with.*

12. On consideration of above case law and principles laid down by Hon'ble Apex Court, it appears that the guidelines regarding exercise of powers under Section 482 of Cr.P.C. in quashing the prosecution on the ground of compounding of offences involving offences under Special Act can be termed as illustrative rather than exhaustive. Simply only on the ground that the case involving offences punishable under Special Act, the Court is not precluded from exercising the powers given under Section 482 of Cr.P.C. to quash the trial. If the offence is petty, not grievous in nature, against an individual/victim, not causing adverse social impact on society at large and not tends to defeat the very purpose of Special Act, then the power under Section 482 of Cr.P.C. may be exercised following the guidelines of Hon'ble Supreme Court given in **Narinder Singh's case** (Supra). While exercising this power apart from above factors the Court has to consider all other facts like circumstances leading to commission of crime, act of accused, manner in which the crime is committed, previous conduct and antecedents of the accused alongwith impact of crime on victim and his family etc..

13. In present case the offence under Section 3(1-11) of SC/ST (Prevention of Atrocities) Act is non-compoundable. This Act is Special Act. The object of the Act is to prevent the commission of offences of atrocities against members of the SC and ST, to provide for Special Courts for the trial of such offences and for the relief and rehabilitation of the victims of such offences and for matters connected therewith are incidental thereto. This is social legislation enacted for protection of SC/ST community from higher section of society.

14. In present case the investigation report reveals that the applicant has been continuously pressurizing and threatening the complainant and her family for marriage purposes. Because of his threatening, the marriage of complainant could not be fixed. Therefore, keeping in view the conduct of applicant and all facts and circumstances of this particular case, the permission to compound the offences cannot be given even though the parties have come to terms with each other.

15. In view of above, I.As. No.15808/2016 and No.15809/2016 for compounding of non-compoundable offence under Sections 354, 354-D of IPC and Section 3(1-11) of Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 is considered and rejected.

16. It is also made clear that the parties may compound the offences which are compoundable under Section 320 of Cr.P.C. before the trial Court, if the fresh application in this regard may be filed before the trial Court.



17. Since, this petition under Section 482 of Cr.P.C. is solely based on the factum of parties have entered into the settlement, which has been declined by this Court by not granting permission to compound the offence, therefore, the present petition under Section 482 of Cr.P.C. also stands dismissed.

18. Any finding recorded in this order shall not prejudice either rights of the applicant to defend himself during trial or that of prosecution.

No costs.

**(Anurag Shrivastava)**  
**Judge**

Rashid\*