**THE HIGH COURT OF MADHYA PRADESH**

**M.Cr.C No. 44785/2021**

**(Ved Prakash Sharma Vs. The State of Madhya Pradesh & ors)**

**Jabalpur, Dated: 16/11/2021**

Shri Anil Lala, learned counsel for the petitioner.

Shri V.K Shukla, learned Panel Lawyer for the respondent/State.

This petition under section 482 of the Cr.P.C has been filed on behalf of the petitioners seeking quashing of Criminal Case No.100874/2014 (State of M.P through S.H.O, Rajendragram District Annupur Vs. Ved Prakash Sharma, S/o Ramyash Sharma) under sections 279, 304A of IPC on the ground of compromise between the parties.

2. Learned counsel for the petitioner has enclosed a copy of the compromise between Samera Bai, Mangalram S/o Ramlal, Rameshlal Panika and Indrapal Panika on one hand and Ved Prakash Sharma, S/o Ramyash Sharma on other hand, stating that they have entered into a compromise and the family members of victim, who are daughter and real brothers of the victim have no objection in the compromise and acquittal of the accused on the basis of such compromise.

3. Learned counsel for the petitioner has enclosed and places reliance on the order dated 05/08/2014 passed in M.Cr.C No.17532/2013 whereby a coordinate Bench of this Court allowed application under section 482 of Cr.P.C on the basis of compromise entered into by the parties in relation to Crime no.501/2013 for the offence punishable under sections 376-D and 115 of IPC. Similarly reliance is also placed on order dated 01/03/2019 passed in M.Cr.CNo.39221/2018 (Rakesh Khanna Vs. Amar Singh Chauhan), whereby Complaint Criminal case No.2158/2009 for offence under section 138 of Negotiable Instruments Act was quashed in terms of the compromise and petitioner was acquitted of the offences under section 138 of Negotiable Instruments Act.

4. Learned counsel for the petitioner submits that inherent powers of the High Court are wide in amplitude and permits quashing of criminal proceedings.

5. Learned counsel for the State on other hand submits that in case of ***Gian Singh Vs. State of Punjab and another, (2012) 10 SCC 303***, the Supreme Court has held that inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accordance with the guidelines engrafted in such power namely; (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 proceedings or complaint or F.I.R may be exercised where the offender and 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 powers, 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 serious impact on society. It is further held that the criminal cases having overwhelmingly and pre-dominatingly civil flavor stand on 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 from 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. It is further held that the 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.

6. After hearing learned counsel for the parties and going through the record certain aspects are evident. Firstly, victim is not alive to make a compromise.

7. In case of ***Jacob Mathew Vs. State of Punjab & another, (2005)6 SCC1*** the Supreme Court has held that concept of negligence under section 304A is different and much in degree than that contemplated as a civil wrong. Though it is argued that legal heirs of victims have been compensated in terms of compensation awarded by MACT. There was no mens rea **but the fact is that offence punishable under section 304-A of IPC cannot be termed to be an offence, which is private in nature.** It is also true that victim in this case is not available, coupled with the fact that offence is not compoundable and in case such a compromise is allowed then that would mean that those who have money to pay can escape the clutches of law.

In case of ***Sadha Singh Vs. State of Punjab, (1985) 3 SCC 225*** the Supreme Court has held that “power of wealth need not extend to overawe court processes”.

In the case of ***State of Karnataka Vs. Sharanappa Basanagouda Aregoudar (2002) 3 SCC 738***, the Supreme Court has held that giving sentence in cases punishable under section 304-A is to depict the public face of criminal justice system and is in larger interest of the society.

In case of ***Dalbir Singh Vs. State of Haryana,2000(3) SCR 1000***, the Supreme Court has reiterated the deterrent principle of punishing

individual for their reckless act by observing that while considering the quantum of sentence to be imposed for offence under section 304-A IPC of causing death by rash or negligent driving of automobiles, one of the prime considerations should be deterrence, one of the most effective ways of keeping such drivers under mental vigil is to maintain a deterrent element in the sentencing sphere and thus held that every driver must always keep in his mind the fear psyche that if he is convicted of the offence for causing death of a human being due to his callous driving of the vehicle, he cannot escape from the jail sentence.

Recently, High Court of M.P at Gwalior Bench in Criminal Revision No. 2512/2021 decided on 12/11/2021 in case of Devendra Valmik Vs. State of M.P has observed that court should not award a flea-bite sentence for offence under section 304-A of IPC by showing undue sympathy when a person loses his life due to the negligent acts of convict in causing the accident.

In the case of ***Sheonandan Paswan Vs. State of Bihar & others (1987)1 SCC 288***, wherein the Supreme Court has observed as under:-

> "14……. It is now settled law that criminal proceedings is not a proceeding for vindication of a private grievance but it is a proceeding initiated for the purpose of punishment to the offender in the interest of the society. It is for maintaining stability and orderliness in the society that certain acts are constituted offences and the right is given to any citizen to set the machinery of the criminal law in motion for the purpose of bringing the offender to book. It is for this reason that in A.R.Antulay Vs. R.S Nayak [(1984)2 SCC 500: 1984 SCC (Cri) 277] this Court pointed out that (SCC p.509, para 6) "punishment of the offender in the interest of the society being one of the objects behind penal statutes enacted for larger good of the society, right to initiate proceedings cannot be whittled down, circumscribed or fettered by putting it into a strait jacket formula of locus standi …."

In the present case, applicant has already been convicted, thus as has been held in Sheonandan Paswan (supra), criminal proceedings are not

proceeding for vindication of private grievance and in present case as has been held State of Karnataka Vs. Sharanappa Basanagouda Aregoudar (supra) wherein referring to the penology, it is held that the sentence should be proportionate to gravity of offence and should have deterrent effect and court should exercise its discretion in awarding sentence in the larger interest of the society, I am of the opinion that no ground is made out for accepting the compromise application as that will amount to promoting the rich to purchase peace for themselves on the strength of their wealth and in addition offence is not in the private domain cannot be said to be one having predominantly civil flavor thus liable to be quashed, therefore, the application fails and is dismissed.

**(Vivek Agarwal)**
**Judge**

**THE HIGH COURT OF MADHYA PRADESH**

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**The High Court of Madhya Pradesh, Principal Seat At Jabalpur**

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| 1 | Case Number | M.Cr.C No. 44785/2021 |
| 2 | Parties Name | Ved Prakash Sharma<br>Vs.<br>The State of Madhya Pradesh & ors |
| 3 | Date of Order | 16/11/2021 |
| 4 | Bench Constituted of | Hon'ble Vivek Agrawal, J. |
| 5 | Order delivered by | Hon'ble Vivek Agrawal, |
| 6 | Whether approved for reporting | Yes |
| 7 | Name of the counsel for parties | Shri Anil Lala, Advocate for the applicant.<br>Shri V.K Shukla, PL for the respondent/State, |
| 8 | Law laid down | Inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accordance with the guidelines engrafted in such power namely; (i) to secure the ends of justice or (ii) to prevent abuse of the process of any Court. In those cases power to quash the criminal proceedings or complaint or F.I.R may be exercised where the offender and 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 powers, 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 serious impact on society. It is further held that the |

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| | | criminal cases having overwhelmingly and pre-dominatingly civil flavor stand on 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 from 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. It is further held that the 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.<br>Offence punishable under section 304A is to depict the public face of criminal justice system and is in larger interest of the society. Power of wealth need not extend to overawe court processes. Offence punishable under section 304A IPC cannot be termed to be an offence which is private in nature, thus deterrent principle of punishing an individual for their reckless act because the sentence should be proportionate to gravity of offence and should necessarily have deterrent effect, therefore court refused to quash the |

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| | | criminal proceedings in pending appeal on the basis of compromise. |
| 9. | Relevant Para | 5 & 7 |

(Vivek Agrawal)
Judge

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