



IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA.

Cr.MMO No. 648 of 2023

Reserved on: 05.12.2023

Decided on: 08.12.2023

Ranjeet Kumar

...Petitioner

Versus

State of H.P. & Ors.

...Respondents

Coram:

Hon'ble Mr. Justice Tarlok Singh Chauhan, Judge.

Hon'ble Mr. Justice Satyen Vaidya, Judge.

Whether approved for reporting? ¹ Yes.

For the Petitioner : Mr. Arun Sehgal, Advocate.

For the Respondent: Mr. I. N. Mehta, Mr. Y. W. Chauhan, Sr. Addl. A.Gs. with Mr. Navlesh Verma, Ms. Sharmila Patial, Addl. A.G. and Mr. J. S. Guleria, Dy. A.G. for respondents No. 1 to 3.

Tarlok Singh Chauhan, Judge

Upon reference by learned Single Judge of this Court, this Division Bench is called upon to resolve the question as to whether this Court can quash FIR on the basis of a compromise in an offence as involved in the instant case.

2. The minimal facts as necessary for determining the question are that the petitioner Ranjeet Kumar filed a petition under Section 482 Cr.P.C. for quashing of FIR No. 39 of 2020, dated 08.03.2020, registered under Sections 363, 376, 212, 120-B of the Indian Penal Code (for short 'IPC) and Section 4 of the Protection of Children from Sexual Offences Act (for short 'POCSO

¹ Whether reporters of the local papers may be allowed to see the judgment? yes

Act') with the Police Station Indora, District Kangra, H.P., as well as, the proceedings resultant thereto, bearing No. 108/2020, pending in the Court of Fast learned Additional Sessions Judge, Fast Track POCSO Court, Kangra at Dharamshala. Such quashing was sought mainly on the ground that the family members of the petitioner (accused) as well as the child victim had settled the matter by solemnising the marriage of the child with the petitioner on 09.03.2023 and thereafter they had been residing together as husband and wife in the matrimonial home and a compromise to this effect has also been effected on 17.04.2023.

3. While seeking quashing, support was sought to be drawn from the judgments already rendered by some of the learned Single Judges of this Court in **Sahil vs. State of Himachal Pradesh through Secretary (Home) to the Government of Himachal Pradesh, 2022 (2) Him. L.R. (HC) 739** and **Criminal Misc. Petition (Main) No. 549 of 2021**, titled as **Sakshi and others vs. State of H.P. and others**, decided on 08.11.2021, whereby in similar circumstances, the FIR and consequent proceedings thereto had been quashed.

4. The learned Single Judge vide reference order, after placing reliance on a three Judges' Bench of the Hon'ble Supreme Court in **Gian Singh vs. State of Punjab (2012) 10 SCC 303** and thereafter in **Narinder Singh and Others vs. State of Punjab and another (2014) 6 SCC 466**, which dealt

with the powers of the High Courts under Section 482 Cr.P.C. and thereafter relying upon the provisions of the POCSO and the judgment of the Hon'ble Supreme Court in **Alakh Alok Srivastava vs. Union of India and others 2018 (7) SCALE 88, Criminal Appeal No. 1874 of 2022**, titled as **State of Maharashtra and another vs. Dr. Maroti 2023 (4) SCC 298** and ultimately while placing reliance on the judgment of the Hon'ble Supreme Court in **Daxaben vs. The State of Gujarat and others (2022) 11 SCALE 329**, held that the compromise of the child victim and the parents with petitioner was inconsequential. It was further observed that the role of the complainant had come to an end after putting the criminal machinery into motion by informing the police and in serious offences like the present one, the crime is always against the State and private parties, cannot compromise the matter.

5. The learned counsel for the petitioner has vehemently argued that no doubt this case concerns a sexual act with the minor, where consent is inconsequential and cannot be used as defence but nonetheless the Court cannot be a mute spectator knowing fully that, in case, the impugned FIR is not quashed, the petitioner would have to face incarceration for at least 10 years. Moreover, the act as committed could at best be termed to be a mistake or blunder, which was committed due to immature act and with uncontrolled emotions of two persons

out of whom one was still a minor and the law cannot be so harsh so as to stand like a wall between two persons who are now happily married.

6. On the other hand, Mr. Navlesh Verma, learned Additional Advocate General, would argue that the offence for which the petitioner has been charged is an offence against the State, as rightly held by the referring Court, the same cannot be compounded.

7. In order to appreciate the controversy in question, the Court shall first would have to look into the nature and scope of its inherent powers under Section 482 Cr.P.C. and also the scope of Section 320 Cr. P.C. which is the only statutory provision in Cr.P.C. for compounding offences. It classifies the offences, which are simply compoundable and those compoundable with the permission of the Court (Sections 320(i) and 320(ii)).

8. The scope of power exercisable under Section 482 Cr.P.C., when a prayer is made out for quashing criminal proceedings involving non-compoundable offences, on account of settlement between the parties, has come up for consideration repeatedly before the Hon'ble Supreme Court and we would refer to some of those decisions.

9. In **B. S. Joshi vs. State of Haryana AIR 2003 SC 1386**, the Hon'ble Supreme Court held that Section 320 Cr.P.C. does not limit or control the exercise of powers vested in the

High Courts under Section 482 Cr.P.C. and the High Courts would have the power to quash criminal proceedings on an FIR under exercise of power under Section 482 Cr.P.C., even if the offence was non-compoundable under Section 320 Cr.P.C. The Hon'ble Supreme Court drew a distinction between compounding an offence as permitted under Section 320 Cr.P.C. and quashing the complaint or criminal proceedings under Section 482 Cr.P.C. and also Article 226 of the Constitution of India and held that the power of the High Courts under Section 482 Cr.P.C. to quash criminal proceedings or an FIR were not circumscribed by Section 320 Cr.P.C.

10. To the same effect is the decision of the Hon'ble Supreme Court in **Nikhil Merchant vs. C.B.I. & Anr., AIR 2009 SC 428**, where relying upon the decision of **Joshi's case (supra)**, the Hon'ble Supreme Court took note of the settlement arrived at between the parties and quashed the criminal proceedings involving non-compoundable offences. It was held that since the criminal proceedings had the overtone of the civil dispute, which have been amicably settled between the parties, it was a fit case where technicalities should not be allowed to stand in the way of quashing criminal proceedings, since the continuance of the same after the compromise arrived at between the parties would be a futile exercise.

11. In **Manoj sharma vs. State & Other 2008(16) SCC 1**, the Hon'ble Supreme Court took the view that once disputes are settled between the parties amicably, High Court cannot refuse to exercise the jurisdiction either under Section 482 Cr.P.C. or under Article 226 of the Constitution of India to quash the criminal proceedings, even if the offence involved is non-compoundable.

12. In **Shiji vs. Radhika, 2011 (10) SCC 705**, the Hon'ble Supreme Court held as under:-

17. It is manifest that simply because an offence is not compoundable under [Section 320](#) IPC is by itself no reason for the High Court to refuse exercise of its power under [Section 482](#) Cr.P.C. **That power can in our opinion be exercised in cases where there is no chance of recording a conviction against the accused and the entire exercise of a trial is destined to be an exercise in futility.** There is a subtle distinction between compounding of offences by the parties before the trial Court or in appeal on one hand and the exercise of power by the High Court to quash the prosecution under [Section 482](#)Cr.P.C. on the other. While a Court trying an accused or hearing an appeal against conviction, may not be competent to permit compounding of an offence based on a settlement arrived at between the parties in cases where the offences are not compoundable under [Section 320](#), the High Court may quash the prosecution even in cases where the offences with which the accused stand charged are non-compoundable. The inherent powers of the High Court under [Section 482](#) Cr.P.C. are not for that purpose controlled by [Section 320](#) Cr.P.C.

18. Having said so, we must hasten to add that the **plenitude of the power under [Section 482](#) Cr.P.C. by itself, makes it obligatory for the High Court to exercise the same with utmost care and caution. The width and the nature of the power itself demands that its exercise is sparing and only in cases where the High Court is, for reasons to be recorded, of the clear view that continuance of the prosecution would be nothing but an abuse of the process of law.** It is neither necessary nor proper for us to enumerate the situations in which the exercise of power under [Section 482](#) may be justified. All that we need to say is that the **exercise of power must be for securing the ends of justice and only in cases where refusal to exercise that power may result in the abuse of the process of law.** The High court may be justified in declining interference if it is called upon to appreciate evidence for it cannot assume the role of an appellate court while dealing with a petition under [Section 482](#) of the Criminal Procedure Code. Subject to the above, the High Court will have to consider the facts and circumstances of each case to determine whether it is a fit case in which the inherent powers may be invoked.

19. Coming to the case at hand we are of the view that the incident in question had its genesis in a dispute relating to the access to the two plots which are adjacent to each other. It was not a case of broad day light robbery for gain. It was a case which has its origin in the civil dispute between the parties, which dispute has, it appears, been resolved by them. That being so, **continuance of the prosecution where the complainant is not ready to support the allegations which are now described by her as arising out of some "misunderstanding and misconception" will be a futile exercise that will serve no purpose.** It is

noteworthy that the two alleged eye witnesses, who are closely related to the complainant, are also no longer supportive of the prosecution version. The continuance of the proceedings is thus nothing but an empty formality. [Section 482](#) Cr.P.C. could, **in such circumstances, be justifiably invoked by the High Court to prevent abuse of the process of law and thereby preventing a wasteful exercise by the Courts below.**

13. In **Gian Singh vs. State of Punjab and Another, 2012 (10) SCC 303**, a Bench of three Hon'ble Judges of the Supreme Court observed as under:-

52. **The question is with regard to the inherent power of the High Court in quashing the criminal proceedings against an offender who has settled his dispute with the victim of the crime but the crime in which he is allegedly involved is not compoundable** under [Section 320](#) of the Code.

53. [Section 482](#) of the Code, as its very language suggests, saves the inherent power of the High Court which it has by virtue of it being a superior court to prevent abuse of the process of any court or otherwise to secure the ends of justice. It begins with the words, **'nothing in this Code'** which means that the provision is an **overriding provision. These words leave no manner of doubt that none of the provisions of the Code limits or restricts the inherent power. The guideline for exercise of such power is provided in Section 482 itself i.e., to prevent abuse of the process of any court or otherwise to secure the ends of justice.** As has been repeatedly stated that [Section 482](#) confers no new powers on High Court; it merely safeguards existing inherent powers possessed by High Court necessary to prevent abuse of the process of any

Court or to secure the ends of justice. **It is equally well settled that the power is not to be resorted to if there is specific provision in [the Code](#) for the redress of the grievance of an aggrieved party. It should be exercised very sparingly and it should not be exercised as against the express bar of law engrafted in any other provision [of the Code](#).**

54. In different situations, the inherent power may be exercised in different ways to achieve its ultimate objective. Formation of opinion by the High Court before it exercises inherent power under [Section 482](#) on either of the twin objectives, (i) to prevent abuse of the process of any court or (ii) to secure the ends of justice, is a sine qua non.

55. In the very nature of its constitution, it is the judicial obligation of the High Court to undo a wrong in course of administration of justice or to prevent continuation of unnecessary judicial process. This is founded on the legal maxim *quando lex aliquid alicui concedit, conceditur et id sine qua res ipsa esse non potest*. The full import of which is whenever anything is authorised, and especially if, as a matter of duty, required to be done by law, it is found impossible to do that thing unless something else not authorised in express terms be also done, may also be done, then that something else will be supplied by necessary intendment. ***Ex debito justitiae* is inbuilt in such exercise; the whole idea is to do real, complete and substantial justice for which it exists. The power possessed by the High Court under [Section 482](#) of the Code is of wide amplitude but requires exercise with great caution and circumspection.**

56. It needs no emphasis that exercise of inherent power by the High Court would entirely depend on the facts and

circumstances of each case. It is neither permissible nor proper for the court to provide a straitjacket formula regulating the exercise of inherent powers under [Section 482](#). No precise and inflexible guidelines can also be provided.

57. 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.**

58. Where High Court quashes a criminal proceeding having regard to the fact that dispute between the offender and victim has been settled although offences are not compoundable, it does **so as in its opinion, continuation of criminal proceedings will be an exercise in futility and justice in the case demands that the dispute between the parties is put to an end and peace is restored; securing the ends of justice being the ultimate guiding factor.** No doubt, crimes are acts which have harmful effect on the public and consist in wrong doing that seriously endangers and threatens well-being of society and it is not safe to leave

the crime- doer only because he and the victim have settled the dispute amicably or that the victim has been paid compensation, yet certain crimes have been made compoundable in law, with or without permission of the Court. **In respect of serious offences like murder, rape, dacoity, etc; or other** offences of mental depravity under IPC or offences of moral turpitude under special statutes, like [Prevention of Corruption Act](#) or the offences committed by public servants while working in that capacity, **the settlement between offender and victim can have no legal sanction at all.** However, certain offences which overwhelmingly and predominantly bear civil flavour having arisen out of civil, mercantile, commercial, financial, partnership or such like transactions or the offences arising out of matrimony, particularly relating to dowry, etc. or **the family dispute, where the wrong is basically to victim and the offender and victim have settled all disputes between them amicably**, irrespective of the fact that such offences have not been made compoundable, the High Court may within the framework of its inherent power, quash the criminal proceeding or criminal complaint or F.I.R if it is satisfied that on the face of such settlement, there is hardly any likelihood of offender being convicted and by not quashing the criminal proceedings, justice shall be casualty and ends of justice shall be defeated. The above list is illustrative and not exhaustive. Each case will depend on its own facts and no hard and fast category can be prescribed.

61. The position that emerges from the above discussion can be summarised thus: the power of the High Court in quashing a criminal proceeding or FIR or complaint in exercise of its inherent jurisdiction is distinct and different from the 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 viz; (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 proceeding 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 power, 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. Similarly, any compromise between the victim and offender in relation to the offences under special statutes like [Prevention of Corruption Act](#) or the offences committed by public servants while working in that capacity etc; cannot provide for any basis for quashing criminal proceedings involving such offences. But the criminal cases having overwhelmingly and pre-dominatingly civil flavour 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 out of 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.** In this category of cases, 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. In other words, the High Court must consider whether it would be unfair or contrary to the interest of justice to continue with the criminal proceeding or continuation of the criminal proceeding would tantamount to abuse of process of law despite settlement and compromise between the victim and wrongdoer and whether to secure the ends of justice, it is appropriate that criminal case is put to an end and if the answer to the above question(s) is in affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding.

14. In **Narinder Singh & Ors. vs. State of Punjab (2014) 6 SCC 466**, the Hon'ble Supreme Court has laid down the following principles by which the High Court would be guided in giving adequate treatment to the settlement between the parties in exercising its power under Section 482 Cr.P.C. while accepting the settlement and quashing the proceedings or refusing to accept the settlement at its discretion with direction to continue with the criminal proceedings:-

29.1 Power conferred under [Section 482](#) of the Code 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 not 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 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, those criminal cases having overwhelmingly and pre-dominantly 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 powers, 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.**

29.6 Offences under [Section 307 IPC](#) would fall in the category of heinous and serious offences and therefore is to be generally **treated as crime against the society and not against the individual alone. However, the High Court would not rest its decision merely because there is a mention of [Section 307 IPC](#) in the FIR or the charge is framed under this provision. It would be open to the High Court to examine as to whether incorporation of [Section 307 IPC](#) is there for the sake of it or the prosecution has collected sufficient evidence, which if proved, would lead to proving the charge under [Section 307 IPC](#). For this purpose, it would be open to the High Court to go by the nature of injury sustained, whether such injury is inflicted on the vital/delegate parts of the body, nature of weapons used etc. Medical report in respect of injuries suffered by the victim can generally be the guiding factor. On the basis of this prima facie analysis, the High Court can examine as to whether there is a strong possibility of conviction or the chances of conviction are remote and bleak. In the former case it can refuse to accept the settlement and quash the criminal proceedings whereas in the later case it would be permissible for the High Court to accept the plea compounding the offence based on complete settlement between the parties. At this stage, the Court can also be swayed by the fact that the settlement between the parties is going to result in harmony between them which may improve their future relationship.**

29.7 While deciding whether to exercise its power under [Section 482](#) of the Code or not, **timings of settlement play a crucial role.** Those cases where the **settlement is arrived at immediately after the alleged commission of offence and the matter is still under investigation**, the High Court may be liberal in **accepting the settlement to quash the criminal**

proceedings/investigation. It is because of the reason that at this stage the investigation is still on and even the charge sheet has not been filed. **Likewise, those cases where the charge is framed but the evidence is yet to start or the evidence is still at infancy stage, the High Court can show benevolence in exercising its powers favourably, but after prima facie assessment of the circumstances/material mentioned above. On the other hand, where the prosecution evidence is almost complete or after the conclusion of the evidence the matter is at the stage of argument, normally the High Court should refrain from exercising its power under Section 482 of the Code,** as in such cases the trial court would be in a position to decide the case finally on merits and to come a conclusion as to whether the offence under Section 307 IPC is committed or not. Similarly, in those cases where the conviction is already recorded by the trial court and the matter is at the appellate stage before the High Court, mere compromise between the parties would not be a ground to accept the same resulting in acquittal of the offender who has already been convicted by the trial court. Here charge is proved under Section 307 IPC and conviction is already recorded of a heinous crime and, therefore, there is no question of sparing a convict found guilty of such a crime.

15. In **Prabatbhai Aahir alias Prabatbhai Bhimsinghbhai Karmur and others vs. State of Gujarat and Another, 2017 (9) SCC 641**, the Hon'ble Supreme Court has summarized the broad principles with regard to quashing of the criminal proceedings on the basis of compromise between the parties, which read as under:-

16. The broad principles which emerge from the precedents on the subject, may be summarised in the following propositions:-

16.1 [Section 482](#) preserves the inherent powers of the High Court to prevent an abuse of the process of any court or to secure the ends of justice. The provision does not confer new powers. It only recognises and preserves powers which inhere in the High Court;

16.2 The invocation of the jurisdiction of the High Court to quash a First Information Report or a criminal proceeding on the ground that a settlement has been arrived at between the offender and the victim is not the same as the invocation of jurisdiction for the purpose of compounding an offence. While compounding an offence, the power of the court is governed by the provisions of [Section 320](#) of the Code of Criminal Procedure, 1973. The power to quash under [Section 482](#) is attracted even if the offence is non-compoundable.

16.3 In forming an opinion whether a criminal proceeding or complaint should be quashed in exercise of its jurisdiction under [Section 482](#), the High Court must evaluate whether the ends of justice would justify the exercise of the inherent power;

16.4 While the inherent power of the High Court has a wide ambit and plenitude it has to be exercised; (i) to secure the ends of justice; or (ii) to prevent an abuse of the process of any court;

16.5 **The decision as to whether a complaint or First Information Report should be quashed on the ground that the offender and victim have settled the dispute, revolves ultimately on the facts and circumstances of each case and no exhaustive elaboration of principles can be formulated;**

16.6 In the exercise of the power under [Section 482](#) and while dealing with a plea that the dispute has been settled, the High Court must have due regard to the nature and gravity of the offence. Heinous and serious offences involving mental depravity or offences such as murder, rape and dacoity cannot appropriately be quashed though the victim or the family of the victim have settled the dispute. Such offences are, truly speaking, not private in nature but have a serious impact upon society. The decision to continue with the trial in such cases is founded on the overriding element of public interest in punishing persons for serious offences;

16.7 As **distinguished from** serious offences, **there may be** criminal cases which have an overwhelming or predominant element of a civil dispute. They stand on a distinct footing in so far as the exercise of the inherent power to quash is concerned;

16.8 Criminal cases involving offences which arise from commercial, financial, mercantile, partnership or similar transactions with an essentially civil flavour may in appropriate

situations fall for quashing where parties have settled the dispute;

16.9 In such a case, the High Court may quash the criminal proceeding if in view of the compromise between the disputants, the possibility of a conviction is remote and the continuation of a criminal proceeding would cause oppression and prejudice; and

16.10 There is yet an exception to the principle set out in propositions 16.8 and 16.9 above. Economic offences involving the financial and economic well-being of the state have implications which lie beyond the domain of a mere dispute between private disputants. The High Court would be justified in declining to quash where the offender is involved in an activity akin to a financial or economic fraud or misdemeanour. The consequences of the act complained of upon the financial or economic system will weigh in the balance.

16. In **Pramod Suryabhan Pawar vs. State of Maharashtra & Anr., (2019) 9 SCC 608**, the Hon'ble supreme Court, while dealing with the case relating to quashment in a case of allegation of rape and regards the power of the Court to quash proceedings under Section 482 Cr.P.C., observed as under:-

6. Section 482 is an overriding section which saves the inherent powers of the court to advance the cause of justice. Under Section 482 the inherent jurisdiction of the

court can be exercised (i) to give effect to an order under the CrPC; (ii) to prevent the abuse of the process of the court; and (iii) to otherwise secure the ends of justice. The powers of the court under Section 482 are wide and the court is vested with a significant amount of discretion to decide whether or not to exercise them. The court should be guarded in the use of its extraordinary jurisdiction to quash an FIR or criminal proceeding as it denies the prosecution the opportunity to establish its case through investigation and evidence. These principles have been consistently followed and re-iterated by this Court. In *Inder Mohan Goswami v State of Uttaranchal* (2007) 12 SCC 1, this Court observed.

“23. This Court in a number of cases has laid down the scope and ambit of courts’ powers under Section 482 CrPC. Every High Court has inherent powers to act *ex debito justitiae* to do real and substantial justice, for the administration of which alone it exists, or to prevent abuse of the process of the court. Inherent power under Section 482 CrPC can be exercised:

- (i) to give effect to an order under the Code;
- (ii) to prevent abuse of the process of the court, and
- (iii) to otherwise secure the ends of justice.

24. Inherent powers under Section 482 CrPC though wide have to be exercised sparingly, carefully and with great caution and only when exercise is justified by the tests specifically laid down in this section itself. Authority of the court exists for the advancement of justice. If any abuse of the process leading to injustice is brought to the notice of the court, then the court would be justified in preventing

injustice by invoking inherent powers in absence of specific provisions in the statute.”

7. Given the varied nature of cases that come before the High Courts, any strict test as to when the court’s extraordinary powers can be exercised is likely to tie the court’s hands in the face of future injustices. This Court in *State of Haryana v Bhajan Lal*⁶ conducted a detailed study of the situations where the court may exercise its extraordinary jurisdiction and laid down a list of illustrative examples of where quashing may be appropriate. It is not necessary to discuss all the examples, but a few bear relevance to the present case. The court in *Bhajan Lal* noted that quashing may be appropriate where

“102.(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2).

... (7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.”

8. In deciding whether to exercise its jurisdiction under Section 482, the Court does not adjudicate upon the

veracity of the facts alleged or enter into an appreciation of competing evidence presented. The limited question is whether on the face of the FIR, the allegations constitute a cognizable offence. As this Court noted in *Dhruvaram Murlidhar Sonar v State of Maharashtra*, 7 (“*Dhruvaram Sonar*”):

“13. It is clear that for quashing proceedings, meticulous analysis of factum of taking cognizance of an offence by the Magistrate is not called for. Appreciation of evidence is also not permissible in exercise of inherent powers. If the allegations set out in the complaint do not constitute the offence of which cognizance has been taken, it is open to the High Court to quash the same in exercise of its inherent powers.”

17. Yet again in **Dr. Dhruvaram Murlidhar Sonar vs. State of Maharashtra and others, 2019 (18) SCC 191**, while dealing with the case regarding quashment of FIR and charges in case relating to rape and as regards the powers of the Court to quash petition under Section 482 Cr.P.C., it was held as under:-

8. It is well settled that exercise of powers under [Section 482](#) of the Cr.P.C. is the exception and not the rule. Under this section, the High Court has inherent powers to make such orders as may be necessary to give effect to any order under [the Code](#) or to prevent the abuse of process of any court or otherwise to secure the ends of justice. But the expressions "abuse of process of law" or "to secure the ends of justice" do not confer unlimited jurisdiction on the High Court and the alleged abuse of process of law or the ends of justice could only be secured in accordance with law, including procedural law and not otherwise.

9. This Court in [State of Haryana and Ors. v. Bhajan Lal and Ors.](#) 1992 Supp (1) SCC 335, has elaborately considered the scope and ambit of [Section 482](#) Cr.P.C. Seven categories of cases have been enumerated where power can be exercised under [Section 482](#) of Cr.P.C. Para 102 thus reads:

“102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under [Article 226](#) or the inherent powers under [Section 482](#) of the Code which we have extracted and re-produced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under [Section 156\(1\)](#) of the Code except under an order of a Magistrate within the purview of [Section 155\(2\)](#) of the Code.

(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused. (4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.”

10. In [Rajesh Bajaj v. State NCT of Delhi & Ors.](#), (1999) 3 SCC 259, this Court has held that it is not necessary that a complainant should verbatim reproduce in the body of his complaint all the ingredients of the offence he is alleging. If the factual foundation for the offence has been laid in the complaint, the court should not hasten to quash

criminal proceedings during the investigation stage merely on the premise that one or two ingredients have not been stated with details.

11. In [State of Karnataka v. M. Devendrappa and Anr.](#), (2002) 3 SCC 89, it was held that while exercising powers under [Section 482 Cr.P.C.](#), the court does not function as a court of appeal or revision. Inherent jurisdiction under the Section though wide has to be exercised sparingly, carefully and with caution and only when such exercise is justified by the tests specifically laid down in the Section itself. It was further held as under:-

"6....It would be an abuse of process of the court to allow any action which would result in injustice and prevent promotion of justice. In exercise of the powers court would be justified to quash any proceeding if it finds that initiation/continuance of it amounts to abuse of the process of court or quashing of these proceedings would otherwise serve the ends of justice. When no offence is disclosed by the complaint, the court may examine the question of fact. When a complaint is sought to be quashed, it is permissible to look into the materials to assess what the complainant has alleged and whether any offence is made out even if the allegations are accepted in toto".

12. Recently, in [Vineet Kumar and Ors. v. State of Uttar Pradesh and Anr.](#) (2017) 13 SCC 369, this Court has observed as under:-

"41.Inherent power given to the High Court under [Section 482 CrPC](#) is with the purpose and object of advancement of justice. In case solemn process of Court is sought to be abused by a person with some oblique motive, the Court has to thwart the attempt at the very threshold. Judicial process is a solemn

proceeding which cannot be allowed to be converted into an instrument of oppression or harassment. When there are materials to indicate that a criminal proceeding is manifestly attended with mala fide and proceeding is maliciously instituted with an ulterior motive, the High Court will not hesitate in exercise of its jurisdiction under Section 482 CrPC to quash the proceeding. The present is a fit case where the High Court ought to have exercised its jurisdiction under Section 482 CrPC and quashed the criminal proceedings."

13. It is clear that for quashing the proceedings, meticulous analysis of factum of taking cognizance of an offence by the Magistrate is not called for. Appreciation of evidence is also not permissible in exercise of inherent powers. If the allegations set out in the complaint do not constitute the offence of which cognizance has been taken, it is open to the High Court to quash the same in exercise of the inherent powers.

18. In **Ramgopal vs. State of Madhya Pradesh (2022) Cr.L.J. 2801**, the Hon'ble Supreme Court while dealing with the scope of Section 482 Cr.P.C. held that limited jurisdiction to compound an offence within framework of Section 320 Cr.P.C. is not an embargo against invoking inherent power by the High Court vested in it under Section 482 Cr.P.C. and it was observed as under:-

8. We have heard learned Counsels for the Appellants and the State(s) at a considerable length. The questions of law concerning the power of a High Court to quash proceedings emanating from non compoundable offences

which have no impact or depraving effect on the society at large, on the basis of a compromise between the accused and the victim/complainant, are no longer res integra and the same have been authoritatively settled by this Court in affirmative. Learned Counsel for the Appellants and Complainant(s) in both the appeals have, therefore, heavily counted on the compromise/settlement between the parties and seek quashing of the criminal prosecution in its entirety, Learned State Counsel(s) without controverting the factum of compromise, vehemently opposed such a recourse and asserted that no substantial question of law is involved in these appeals.

9. Before scrutinizing the facts of these cases and rephrasing the scope of powers exercisable by a High Court under [Section 482](#) Cr.P.C., it would be apropos to illuminate the following principles laid down by a 3 Judge Bench of this Court in Gian Singh (Supra) case:

“61. ...the power of the High Court in quashing a criminal proceeding or FIR or complaint in exercise of its inherent jurisdiction is distinct and different from the 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 viz.(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 proceeding or complaint or FIR may be exercised where the offender and the 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 power, 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 a serious impact on society. Similarly, any compromise between the victim and the offender in relation to the offences under special statutes like the [Prevention of Corruption Act](#) or the offences committed by public servants while working in that capacity, etc.; cannot provide for any basis for quashing criminal proceedings involving such offences. But the criminal cases having overwhelmingly and predominately civil flavour stand on a 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 out of 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. In this category of cases, the High Court may quash the criminal proceedings if in its view, because of the compromise between the offender and the victim, the possibility of conviction is remote and bleak and continuation of the criminal case would put the 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 Page victim. In other words, the High Court must consider whether it would be unfair or contrary to the interest of justice to continue with the criminal proceeding or continuation of the criminal proceeding would tantamount to abuse of process of law despite settlement and compromise between the victim and the wrongdoer and whether to secure the

High

ends of justice, it is appropriate that the criminal case is put to an end and if the answer to the above question(s) is in the affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding.”

(Emphasis Applied)

10. The compendium of these broad fundamentals structured in more than one judicial precedent, has been recapitulated by another 3Judge Bench of this Court in [State of Madhya Pradesh vs. Laxmi Narayan & Ors.](#)² elaborating:

“(1) That the power conferred under [Section 482](#) of the Code to quash the criminal proceedings for the non compoundable offences under [Section 320](#) of the Code can be exercised having overwhelmingly and predominantly the civil character, particularly those arising out of commercial transactions or arising out of matrimonial relationship or family disputes and when the parties have resolved the entire dispute amongst themselves;

(2) Such power is not to be exercised in those prosecutions which involved 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;

(3) Similarly, such power is not to be exercised for the offences under the special statutes 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;

(4) xxx xxx xxx

(5) While exercising the power under Section 482 of the Code to quash the criminal proceedings in respect of non-compoundable offences, which are private in nature and do not have a serious impact on society, on the ground that there is a settlement/compromise between the victim and the offender, the High Court is required to consider the antecedents of the accused; the conduct of the accused, namely, whether the accused was absconding and why he was absconding, how he had managed with the complainant to enter into a compromise, etc.”

(Emphasis Applied)

11. True it is that offences which are ‘noncompoundable’ cannot be compounded by a criminal court in purported exercise of its powers under Section 320 Cr.P.C. Any such attempt by the court would amount to alteration, addition and modification of Section 320 Cr.P.C, which is the exclusive domain of Legislature. There is no patent or latent ambiguity in the language of Section 320 Cr.P.C., which may justify its wider interpretation and include such offences in the docket of ‘compoundable’ offences which have been consciously kept out as noncompoundable. Nevertheless, the limited jurisdiction to compound an offence within the framework of Section 320 Cr.P.C. is not an embargo against invoking inherent powers by the High Court vested in it under Section 482 Cr.P.C. The High Court, keeping in view the peculiar facts and circumstances of a case and for justifiable reasons can press Section 482 Cr.P.C. in aid to prevent abuse of the process of any Court and/or to secure the ends of justice.

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 thereafter 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.

13. It appears to us that criminal proceedings involving nonheinous offences or where the offences are predominantly of a private nature, can be annulled irrespective of the fact that trial has already been concluded or appeal stands dismissed against conviction. Handing out punishment is not the sole form of delivering justice. Societal method of applying laws evenly is always subject to lawful exceptions. It goes without saying, that the cases where compromise is struck post conviction, the High Court ought to exercise such discretion with rectitude, keeping in view the circumstances surrounding the incident, the fashion in which the compromise has been arrived at, and with due regard to the nature and seriousness of the offence, besides the conduct of the accused, before and after the incidence. The touchstone for exercising the extraordinary power under [Section 482 Cr.P.C.](#) would be to secure the ends of justice. There can be no hard and fast line constricting the power of the High Court to do substantial justice. A restrictive construction of inherent powers under [Section 482 Cr.P.C.](#) may lead to rigid or specious justice, which in the given facts and circumstances of a case, may rather lead to grave injustice. On the other hand, in cases where heinous offences have been proved against perpetrators, no such benefit ought to be extended, as cautiously observed by this Court in [Narinder Singh & Ors. vs. State of Punjab & Ors.](#)³ and [Laxmi Narayan \(Supra\)](#).

14. In other words, grave or serious offences or offences which involve moral turpitude or have a harmful effect on the social and moral fabric of the society or involve matters concerning public policy, cannot be construed betwixt two individuals or groups only, for such offences have the potential to impact the society at large. Effacing abominable offences through quashing process would not only send a wrong signal to the community but may also accord an undue benefit to unscrupulous habitual or professional offenders, who can secure a 'settlement' through duress, threats, social boycotts, bribes or other dubious means. It is well said that "let no guilty man escape, if it can be avoided."

15. Given these settled parameters, the order of the High Court of Madhya Pradesh culminating into Criminal Appeal No. 1489 of 2012, to the extent it holds that the High Court does not have power to compound a non-compoundable offence, is in ignorance of its inherent powers under [Section 482 Cr.P.C.](#) and is, thus, unsustainable. However, the judgment and order dated 9 th January, 2009 of the High Court of Karnataka, giving rise to Criminal Appeal No. 1488 of 2012 cannot be faulted with on this count for the reason that the parties did not bring any compromise/settlement to the notice of the High Court.

19. We thus sum up and hold that as opposed to [Section 320 Cr.P.C.](#) where the Court is squarely guided by the compromise between the parties in respect of offences 'compoundable' within the statutory framework, the extraordinary power enjoined upon a High Court under [Section 482 Cr.P.C.](#) or vested in this Court under [Article 142](#) of the Constitution, can be invoked beyond the metes and bounds of [Section 320 Cr.P.C.](#) Nonetheless, we reiterate that such powers of wide amplitude ought to be exercised carefully in the context of quashing criminal proceedings,

bearing in mind: (i) Nature and effect of the offence on the conscious of the society; (ii) Seriousness of the injury, if any; (iii) Voluntary nature of compromise between the accused and the victim; & (iv) Conduct of the accused persons, prior to and after the occurrence of the purported offence and/or other relevant considerations.

19. The Judgment in **Ramgopal's case (supra)** came for consideration before the three Hon'ble Judges of the Supreme Court in **Ramawatar vs. State of Madhya Pradesh, AIR 2021 SC 5228** and it was observed as under:-

10. So far as the first question is concerned, it would be ad rem to outrightly refer to the recent decision of this Court in the case of Ramgopal & Anr v. The State of Madhya Pradesh (Criminal Appeal No. 1489 of 2012), wherein, a two-Judge Bench of this Court consisting of two of us (N.V. Ramana, CJI & Surya Kant, J) was confronted with an identical question. Answering in the affirmative, it has been clarified that the jurisdiction of a Court under Section 320 Cr.P.C cannot be construed as a proscription against the invocation of inherent powers vested in this Court under Article 142 of the Constitution nor on the powers of the High Courts under Section 482 Cr.P.C. It was further held that the touchstone for exercising the extra-ordinary powers under Article 142 or Section 482 Cr.P.C., would be to do complete justice. Therefore, this Court or the High Court, as the case may be, after having given due regard to the nature of the offence and the fact that the victim/complainant has willingly entered into a settlement/compromise, can quash proceedings in exercise of their respective constitutional/inherent powers.

11. The Court in **Ramgopal (Supra)** further postulated that criminal proceedings involving non-heinous offences

or offences which are predominantly of a private nature, could be set aside at any stage of the proceedings, including at the appellate level. The Court, however, being conscious of the fact that unscrupulous offenders may attempt to escape their criminal liabilities by securing a compromise through brute force, threats, bribes, or other such unethical and illegal means, cautioned that in cases where a settlement is struck post-conviction, the Courts should, inter-alia, carefully examine the fashion in which the compromise has been arrived at, as well as, the conduct of the accused before and after the incident in question. While concluding, the Court also formulated certain guidelines and held:

"19... Nonetheless, we reiterate that such powers of wide amplitude ought to be exercised carefully in the context of quashing criminal proceedings, bearing in mind: (i) Nature and effect of the offence on the conscious of the society; (ii) Seriousness of the injury, if any; (iii) Voluntary nature of compromise between the accused and the victim; & (iv) Conduct of the accused persons, prior to and after the occurrence of the purported offence and/or other relevant considerations."

[Emphasis Applied]

12. In view of the settled proposition of law, we affirm the decision of this Court in **Ramgopal (Supra)** and re-iterate that the powers of this Court under Article 142 can be invoked to quash a criminal proceeding on the basis of a voluntary compromise between the complainant/victim and the accused.

20. It needs to be noticed that the earlier views of majority of the High Courts in declining to record compromise

and given quietus to the issue was influenced by the judgment of the Hon'ble Supreme Court in **Shimbu & Anr. vs. State of Haryana, 2014 AIR SC 739** and **State of Madhya Pradesh vs. Madan Lal 2015 AIR (SC) 3003**, to conclude that grave and serious offences like rape under Section 376 IPC or sexual offence against children under the POCSO Act cannot be quashed on the ground of compromise.

21. In **Shimbu's case (supra)**, the Hon'ble Supreme Court held that rape is an offence against Society and thus not a matter that should left to the parties to negotiate and settle. Likewise in **Madan Lal's case (supra)**, it was held that in case of rape or an attempt to rape, there could be no compromise between the accused and the victim legally. In **Shimbu's case (supra)**, the accused person had abducted the victim girl at knife point, confined her in their shop for two days and gang-raped her, taking turn. The Trial Court convicted and sentenced the accused to undergo ten years of rigorous imprisonment, which was confirmed in appeals by the High Court. The accused preferred appeals by way of special leave at the Hon'ble Supreme Court. During the pendency of the appeals, the accused and the victim compromised the matter, and the victim produced an affidavit mentioning the settlement. The accused prayed for the reduction of sentence to the period already undergone based on the settlement. The Hon'ble Supreme Court rejected the plea

and held that the compromise could not be construed as a leading factor to award lesser punishment. While holding so, it was observed that rape is an offence against society and not a matter to be left for the parties to compromise and settle. As a matter of fact, the said case did not involve an issue regarding the power of the High Court under Section 482 Cr.P.C. to quash a proceeding on the basis of compromise between the accused and the sexual assault victim but was a case where the accused were convicted for offence under Section 376 IPC for rape, and the compromise was highlighted before the Hon'ble Supreme Court as a plea for reduction of sentence.

22. In **Madan Lal's case (supra)**, the Hon'ble Supreme Court was hearing an appeal filed by the State against the judgment of the High Court by which the conviction arrived at by the Trial Court was set aside based on a compromise arrived at between the accused and the victim. There the accused tricked the victim aged 7 years, and then raped her. Later the mother lodged the FIR. The Trial Court convicted the accused under Section 376(2)(f) of IPC. The High Court converted the conviction to one under Section 354 of IPC and confined the sentence to the period of custody already undergone taking note of the settlement. It was under these circumstances, the Hon'ble Supreme Court held that there can be no compromise between the accused and the victim legally.

23. Though in **Shimbu (supra) and Madan Lal (supra)**, the Hon'ble Supreme Court took the view that rape being a grave and serious offence against society cannot be the subject matter of compromise. Thereafter, the Hon'ble Supreme Court itself in subsequent decisions, quashed the proceedings under Section 376 of IPC and POCSO Act for justifiable reasons by exercising inherent powers under Section 482 Cr.P.C.

24. In **Saju P. R. vs. State of Kerala, Criminal Appeal No. 1740 of 2019**, decided on 22.11.2019, the Hon'ble Supreme Court quashed a rape case on the ground of settlement between the accused and the victim for doing complete justice to the parties concerned.

25. In **Anand D. V. vs. State and another, Criminal Appeal Nos. 394-395 of 2021**, decided on 12.04.2021, the Hon'ble Supreme Court allowed the compromise and quashed the proceedings for rape on the ground that the accused had married the victim. The crime therein was registered against the accused on the complaint of the victim for offences under Sections 376 and 380 of IPC, alleging that the accused, by giving a false promise of marriage, had sexual intercourse with her, but the promise was not honoured. However, after the registration of the FIR, both got married and they approached the High Court of Delhi, seeking the quashing of the proceedings invoking section 482 Cr.P.C. read with Article 226 of the Constitution of India. The

High Court dismissed their plea and, therefore, both preferred separate appeals before the Hon'ble Supreme Court. The Hon'ble Supreme Court allowed the appeal and quashed the proceedings holding that the parties were happily married.

26. In **Jatin Agarwal vs. State of Telangana & Another, Criminal Appeal No. 456 of 2022**, decided on 21.03.2022, involving rape case was quashed as the victim got married to the accused. It was a case where an FIR had been lodged against the accused by the victim for the offence under Sections 417, 420 and 376 IPC alleging that on the promise to marry, the accused made a physical relationship with her, but he withdrew from the promise and refused to marry her. However, later both got married and, moved to the High Court of Telangana, seeking the quashing of the FIR. However, High Court dismissed their plea to quash the FIR and, therefore, they moved to the Hon'ble Supreme Court, which in turn accepted the settlement and allowed the appeal and quashed the FIR exercising its power under Article 142 of the Constitution of India, observing that it was necessary to do complete justice to the parties.

27. In **K. Dhandapani vs. The State by the Inspector of Police, Cr. A. No. 796 of 2022**, decided on 09.05.2022, the Hon'ble Supreme Court set aside the conviction and sentence of an accused who raped his own niece and later married her. The

accused was working as woodcutter on daily wages in a private factory. An FIR was lodged against him for committing rape of his niece on a false promise of marriage under Section 5(j)(ii) read with Section 6, 5(l) read with Sections 6 and 5(n), read with Section 6 of the POCSO Act. The Trial Court convicted and sentenced him to ten years of rigorous imprisonment, which was upheld by the High Court. Aggrieved thereby the accused approached the Hon'ble Supreme Court. The accused submitted that since he has, in fact, married the prosecutrix and they have two children, it would not be in the interest of justice to disturb their family life. The State opposed the grant of any relief to the accused, contended that the prosecutrix was aged 14 years on the date of offence and that the marriage might only be for purpose of escaping punishment. The Court taking note of the custom in Tamil Nadu, which permits the marriage of a girl with her maternal uncle and the statement of the prosecutrix that she is leading a happy married life with the appellant, set aside the conviction observing that "This Court cannot shut its eyes to the ground reality and disturb the happy family life of the appellant and the prosecutrix". However, as a note of caution, the Hon'ble Supreme Court added that in the peculiar facts of the case, it should not be treated as precedent.

28. In **Kapil Gupta vs. State of NCT of Delhi & Another, SLP (Crl.) No. 5806 of 2022**, 2022 SCC Online SC

1030, the Hon'ble Supreme Court quashed the FIR registered under Section 376 of IPC, as the matter had been amicably settled between the accused and the victim holding that though ordinarily, cases under Section 376 of IPC should not be quashed, the Court is not powerless in exercising the extraordinary jurisdiction to quash the proceedings in the facts and circumstances of particular case. It was further held that while exercising the power, the Court has also to take into consideration whether settlement between the parties is going to result in harmony between them, which may improve their mutual relationship and also the stage of the proceedings. There the Hon'ble Supreme Court was hearing an appeal challenging the judgment of High Court of Delhi dismissing the application filed by the victim for quashing the proceedings under Section 376 of IPC, by invoking Section 482 Cr.P.C. While allowing the appeal, the Hon'ble Supreme Court observed that since the victim herself was not supporting the prosecution case, even if, the trial was allowed to be go-ahead, it would attain nothing else than an acquittal. Whereas, if the request for quashing is not allowed, it will amount to adding one more criminal case to the already overburdened criminal Courts.

29. In **Mandar Deepak Pawar vs. State of Maharashtra 2022 (3) DMC 303**, the Hon'ble Supreme Court while dealing with the case of quashing of FIR where the parties

were in consensual physical relationship, the Court observed as under:-

"The appellant and respondent No.2 were undisputedly in a consensual relationship from 2009 to 2011 (or 2013 as stated by the respondent No.2). It is the say of the respondent No.2 that the consensual physical relationship was on an assurance of marriage by the appellant. The complaint has been filed only in 2016 after three years, pursuant where to FIR dated 16.12.2016 was registered under Section 376 and 420, IPC. On hearing learned counsel for parties, we find ex facie the registration of FIR in the present case is abuse of the criminal process. The parties chose to have physical relationship without marriage for a considerable period of time. For some reason, the parties fell apart. It can happen both before or after marriage. Thereafter also three years passed when respondent No.2 decided to register a FIR. The facts are so glaring as set out aforesaid by in us that we have no hesitation in quashing the FIR dated 16.12.2016 and bringing the proceedings to a close. Permitting further proceedings under the FIR would amount to harassment to the appellant through the criminal process itself. We are fortified to adopt this course of action by the judicial view in titled Pramod Suryabhan Pawar Vs. State of Maharashtra & Anr., 2019 9 SCC 608 wherein the factual scenario where complainant was aware that there existed obstacles in marrying the accused and still continued to engage in sexual relations, the Supreme Court quashed the FIR. A distinction was made between a false promise to marriage which is given on understanding by the maker that it will be broken and a breach of promise which is made in good faith but subsequently not fulfilled. This was in the context of Section 375 Explanation 2 and Section 90 of the IPC, 1860. The Criminal appeal is accordingly

allowed. Impugned judgment is set aside and the proceedings in pursuance to FIR dated 16.12.2016 stand quashed, leaving parties to bear their own costs."

30. Following some of the aforesaid judgments of the Hon'ble Supreme Court, invariably all the High Courts including this Court through its various Single Benches have quashed proceedings not only under Section 376 of IPC but also POCSO. After all, the very purpose of inherent power given to the High Courts under Section 482 Cr.P.C. is with the purpose and object of advancement of justice, the touchstone for exercising that power would be to secure ends of justice. The ends of justice are higher than the ends of mere law. Though justice has got to be administered in accordance with the law enacted by the Legislature. The concept of justice is elastic and is imperceptible. There can be no hard and fast line constricting the power of the High Courts to do substantial justice. A restrictive construction of the inherent powers under Section 482 Cr.P.C., may lead to rigid or specious justice, which in the given facts and circumstances may lead to grave injustice, nonetheless such powers of wide amplitude ought to be exercised carefully in the context of quashing criminal proceedings bearing in mind;

- (i) The nature and effect of the offence on the consciousness of the society;
- (ii) Seriousness of injury, if any;

(iii) Voluntary nature of compromise between the accused and victim;

(iv) Conduct of accused; prior to and after the occurrence of the purported offence or other relevant considerations.

(Refer: Ramgopal (supra))

31. It would also to be clear from the aforesaid exposition of law enunciated above that though the High Courts should not normally interfere with the investigation/criminal proceedings involving sexual offences against women and children, only on the ground of settlement, it has not completely foreclose in exercising its extraordinary power under Section 482 Cr.P.C and Article 226 of the Constitution of India to quash such proceedings “extraordinary circumstances to do complete justice to the parties”. However, it is always a difficult task for the Court to identify the so-called “extraordinary circumstances”. The Court has to bear in mind the interest of the victim as also the societal interest which often clash making the job of the Court more difficult and complex. All the relevant issues must be considered from all perspective and the pros and cons must be weighed and a rational view then taken. Holistic approach is called for identifying cases that are fit for compromise.

32. It is more than settled that though a minor is not qualified to enter into a contract, it could be beneficiary of one i.e. parents or guardian is competent to contract on behalf of such minor, if it is in its best interest.

33. Section 320(4) Cr.P.C. states that if a person entitled to compound an offence is minor or lunatic, any person competent to contact on their behalf can compound such offence on their behalf.

34. Under Rule 7 of Order 32 CPC, a next friend or guardian of the minor, can with the leave of the Court enter into an agreement of compromise on behalf of the minor, with reference to the suit in which, he acts as a next friend or guardian.

35. The terms 'best interest of the child', generally refers to the deliberations, the Court undertakes while deciding what services, actions and orders best for the child.

36. Article 3.1 of the United Nations Convention on Rights of the Child, 1989, states that in all decisions concerning children that are made by public or private social protection institutions" Courts, administrative authorities or legislative branches, the child best interest must be a vital consideration". 'Best interest' determinations are generally made by considering several factors, with the child safety and well being as a paramount concern.

37. As per Section 2(9) of the Juvenile Justice (Care and Protection of Children) Act, 2015 'best interest of the child' means the basis for any decision taken regarding the child and to

ensure fulfillment of its basic rights and needs, identity, social well being and physical, emotional and intellectual development. Thus, while dealing with the petitions moved by the parents or guardians of the sexual assault victim to quash the criminal proceedings on the ground of compromise, the Court must consider whether the allegations prima facie constitutes the ingredients of the offence, whether the settlement is in the best interest of the minor victim and whether continuation of the proceedings against the accused and the participation of the minor victim in those proceedings would adversely affect the mental, physical and emotional well being of the latter. (**See: Vishnu and another vs. State of Kerala, Crl. Misc. Case No. 5076 of 2018, decided on 24.05.2023**).

38. Thus, what can be summarised as the broad principles with regard to the quashing of criminal proceedings on the basis of compromise arrived at between the parties, are as follows:-

(i) [Section 482](#) preserves the inherent powers of the High Court to prevent an abuse of the process of any court or to secure the ends of justice. The provision does not confer new powers. It only recognises and preserves powers which inhere in the High Court;

(ii) The invocation of the jurisdiction of the High Court to quash a First Information Report or a criminal proceeding on the ground that a

settlement has been arrived at between the offender and the victim is not the same as the invocation of jurisdiction for the purpose of compounding an offence. While compounding an offence, the power of the court is governed by the provisions of [Section 320](#) of the Code of Criminal Procedure, 1973. The power to quash under [Section 482](#) is attracted even if the offence is non-compoundable.

(iii) In forming an opinion whether a criminal proceeding or complaint should be quashed in exercise of its jurisdiction under [Section 482](#), the High Court must evaluate whether the ends of justice would justify the exercise of the inherent power;

(iv) While the inherent power of the High Court has a wide ambit and plenitude it has to be exercised;

(a) to give effect to the order of the Court;

(b) to secure the ends of justice; or

(c) to prevent an abuse of the process of any court;

(v) In the exercise of the power under [Section 482](#) and while dealing with a plea that the dispute has been settled, the High Court must have due regard to the nature and gravity of the offence. Heinous and serious offences involving mental depravity or offences such as murder, rape and dacoity cannot appropriately be quashed though the victim or the family of the victim have settled the dispute. Such offences are, truly speaking, not private in

nature but have a serious impact upon society. The decision to continue with the trial in such cases is founded on the overriding element of public interest in punishing persons for serious offences;

(vi) As distinguished from serious offences, there may be criminal cases which have an overwhelming or predominant element of a civil dispute. They stand on a distinct footing in so far as the exercise of the inherent power to quash is concerned;

(vii) Criminal cases involving offences which arise from commercial, financial, mercantile, partnership or similar transactions with an essentially civil flavour may in appropriate situations fall for quashing where parties have settled the dispute;

(viii) There is yet an exception to the principle set out in propositions 16.8 and 16.9 above. Economic offences involving the financial and economic well-being of the state have implications which lie beyond the domain of a mere dispute between private disputants. The High Court would be justified in declining to quash where the offender is involved in an activity akin to a financial or economic fraud or misdemeanour. The consequences of the act complained of upon the financial or economic system will weigh in the balance.

(ix) The decision as to whether a complaint or First Information Report should be quashed on the ground that the offender and victim have

settled the dispute, revolves ultimately on the facts and circumstances of each case and no exhaustive elaboration of principles can be formulated;

(x) In such a case, the High Court may quash the criminal proceeding if in view of the compromise between the disputants, the possibility of a conviction is remote and the continuation of a criminal proceeding would cause oppression and prejudice; and

(xi) The High Court 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 thereafter 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.

(xii) As opposed to Section 320 Cr.P.C., where the Court is squarely guided by the compromise between the parties in respect of offences 'compoundable' within the statutory framework, the extraordinary power enjoined upon High Court under Section 482 Cr.P.C. can be invoked beyond metes and bounds and Section 320 Cr.P.C. Nonetheless, such powers of wide amplitude ought to be exercised carefully in the

context of quashing criminal proceedings bearing in mind;

(i) The nature and effect of the offence on the consciousness of the society;

(ii) Seriousness of injury, if any;

(iii) Voluntary nature of compromise between the accused and victim;

(iv) Conduct of accused; prior to and after the occurrence of the purported offence or other relevant considerations.

(xiii) The Court to bear in mind that every case is unique and must, therefore, essentially be decided based on its peculiar facts and circumstances. The viability of quashing criminal proceedings on the ground that the accused and the victim had settled the disputes revolves ultimately around the facts and circumstances of each case, therefore, no straight jacket formula can be evolved.

(xiv) Where the Court has such facts on record, which clearly exhibit that the criminal prosecution involving non-compoundable sexual offences against women and children result in greater injustice to the victim and its closure will promote well being and the possibility of conviction is remote, it can indubitably evaluate the consequential effects of the offence beyond the body of an individual and thereafter adopt a pragmatic approach and may very well decide to quash such proceedings upon a compromise arrived at between the accused and the victim, after taking into consideration all the relevant

facts and circumstances of the particular case including the nature, magnitude, consequence of the crime and genuineness of the compromise. ◇

(xv) While dealing with the petition moved by the parents or guardians of the sexual assault victim to quash the criminal proceedings on the ground of compromise, the Court must consider whether the allegations prima facie constitutes the ingredients of the offence, whether the settlement is in the best interest of the minor victim and whether continuation of the proceedings against the accused and the participation of the minor victim in those proceedings would adversely affect the mental, physical and emotional well being of the latter.

39. These are only some of the broad principles that are required to be borne in mind while considering the plea to quash criminal proceedings involving non-compoundable sexual offences based on compromise.

40. At this stage, we need to enter a caveat and re-emphasize that sexual offences which are grave, heinous and gruesome in nature can invariably never be a subject matter of compromise.

41. Adverting to the facts of the present case, no doubt, the accused has been charged for the offences punishable under Sections 366, 376, 212 and 120-B IPC and Section 4 of the POCSO Act, but then it cannot be ignored that the criminal

prosecution was set into motion only because the victim happens to be a child but otherwise she was in love with the accused. It is also not in dispute that the accused was interested to solemnise marriage with the child victim and has, in fact, solemnised marriage on 09.03.2023 and thereafter has also entered into a compromise on 17.04.2023. In such circumstances, even while bearing in mind the pertinent observations of the Hon'ble Supreme Court in **Alakh Alok Srivastava** and **Dr. Maroti's cases (supra)**, the Court could still quash the FIR after satisfying itself that the child victim and her family members had settled the dispute and the victim got married and was leading a peaceful life and, therefore, allowing the prosecution to continue in such case would only result in disturbance in their happy family life and ends of justice in such circumstances would demand that the parties be allowed to compromise. However, before doing so, the Court must ensure that the marriage is not a camouflage to escape punishment and the consent given by the victim for compromise is voluntarily. The Court must also be satisfied after considering all the facts and circumstances of the case that quashing the proceedings would promote justice for the victim and continuance of the proceedings would cause injustice.

42. Therefore, in such circumstances, compounding of the offence, in our considered opinion would enable both the

parties to lead life of respect and dignity in the society. Once, there is no dispute between them, then obviously the law cannot be so harsh so as to stand as wall between the parties, because the law has to secure the future of the parties, and continuation of criminal proceedings in such circumstances, would only cause an irreparable harassment and hardship and may even tarnish and spoil the reputation of the victim. The Court proceedings cannot be permitted to de-generate into a weapon of harassment and persecution. The power to do complete justice is the very essence of every judicial justice dispensation system. It cannot be diluted by distorted perceptions and is not a slave to anything, except to the caution and circumspection, the standards of which the Court sets before it, in exercise of such plenary and unfettered power inherently vested in it while donning the cloak of compassion to achieve the ends of justice. No embargo, be in the shape of Section 320(9) of the Cr.P.C. or any other such curtailment can whittle down the power of the High Court under Section 482 Cr.P.C. to do complete justice.

43. The compromise, in a modern society, is the sine qua non of harmony and orderly behaviour. It is the soul of justice and if the power under [Section 482](#) of the Cr.P.C. is used to enhance such a compromise which, in turn, enhances the social amity and reduces friction, then it truly is "finest hour of justice".

44. As observed by the Hon'ble Supreme Court in Mrs. **Shakuntala Sawhney vs. Mrs. Kaushalya Sawhney and others, 1980 (1) SCC 63**, while summing up the essence of compromise, it observed as under:-

“....The finest hour of justice arrives propitiously when parties, despite falling apart, bury the hatchet and weave a sense of fellowship of reunion.”

45. In the given facts and circumstances, we are persuaded to uphold the view taken by the learned Single Judge(s) in **Sahil and Sakshi's cases (supra)** and conclude that the High Court in a case of instant kind where the victim had earlier alleged that she had been subjected to sexual assault but then has later on settled the dispute and has got married to the accused and is leading a peaceful life. Invariably, in such like cases, the Court after being satisfied would not allow the prosecution to continue, which would only result in disturbances of their happy family life.

46. This Court on the basis of the material placed on record has satisfied itself that the child victim and her family members have settled the dispute and the victim is now leading a happy and a peaceful married life and, therefore, allowing the prosecution to continue in such case would only result in

disturbance in their happy family life, and ends of justice in such circumstances would demand that the parties be allowed to compromise. We are further satisfied that such compromise is not a camouflage to escape punishment and the consent given by the victim for compromise is voluntarily. Lastly and more importantly, the Court is satisfied after considering all the facts and circumstances of the case, that quashing the proceedings would promote justice for victim and continuance of the proceedings would otherwise cause injustice. Ordered accordingly.

47. In view of the aforesaid discussion, we have no hesitation to conclude that the view taken by the learned Reference Court is not correct view and is accordingly set aside. On the other hand, the views as taken by the other Hon'ble Single Judges in **Sahil vs. State of Himachal Pradesh, 2022 (2) Him. L.R. (HC) 739** and **Criminal Misc. Petition (Main) No. 549 of 2021**, titled as **Sakshi and others vs. State of H.P. and others**, which are more in tune with what has been observed here-in-above, are the correct views. The reference is answered accordingly.

48. Resultantly, the petition is allowed and the FIR No. 39 of 2020, dated 08.03.2020, registered under Sections 363, 376, 212, 120-B of the IPC and Section 4 of the POCSO Act, with the

Police Station Indora, District Kangra, H.P. and all consequential proceedings thereunder are quashed and set aside.

(Tarlok Singh Chauhan)
Judge

(Satyen Vaidya)
Judge

8th December, 2023
(sanjeev)

High Court of H.P.