

Gundi Bibi @ Sabetun Bibi Vs State Of West Bengal & Anr

Court: Calcutta High Court (Appellete Side)

Date of Decision: Feb. 9, 2024

Acts Referred: Indian Penal Code, 1860 â€” Section 304B, 306, 307, 498A
Code Of Criminal Procedure, 1973 â€” Section 202, 204, 320, 397, 437, 482

Hon'ble Judges: Shampa Dutt (Paul), J

Bench: Single Bench

Advocate: Biswajit Manna, Rita Datta

Final Decision: Dismissed

Judgement

Shampa Dutt (Paul), J

1. The present revision has been preferred praying for quashing of the proceedings of G.R. Case No. 624 of 2009, pending before the Court of the

Learned Additional Chief Judicial Magistrate, Contai which arose out of Ramnagar Police Station Case No. 86/2009 dated 3.8.2009 under Sections

498A/304B of the Indian Penal Code and Charge Sheet No. 95/2009 dated 27.10.2009 under Sections 498A/304B of the Indian Penal Code submitted

in connection with Ramnagar Police Station Case No. 86/2009 dated 3.8.2009.

2. FACTS:-

Ramnagar Police Station Case No.86/2009 dated 3.8.2009 was registered for investigation on the basis of a complaint lodged by the opposite party no.

2 with the Officer-in-Charge of Ramnagar Police Station, inter alia alleging commission of offence by the petitioner and others punishable under

Sections 498A/304B of the Indian Penal Code.

The allegations levelled in the said complaint are inter alia to the effect that the daughter of the complainant/opposite party no.2 namely

Sukuman Bibi was married to one Sk. Firdaus according to Muslim rites and customs. During such marriage, as per the demand on the side

of the bridegroom, the opposite party no. 2 paid a sum of Rs. 1,30,000/- in cash. However, since after marriage the daughter of the opposite

party no. 2 was subjected to physical and mental torture by the accused persons over the issue of more dowry.

It is alleged that the daughter of the opposite party no. 2 narrated such incident to the opposite party no. 2 and the opposite party no. 2

then warned the accused persons.

It is further alleged that after his daughter's marriage, the opposite party no. 2 came to know that the father-in-law of his daughter is a

characterless person.

It is also alleged that torture, both physical and mental, inflicted upon the daughter of the opposite party no. 2 by her mother-in-law and

other members of her matrimonial home reached its peak but her husband Sk. Firdaus did not protest to such torture or take any steps.

It is further alleged that on 3.8.2009 the accused persons in collusion and conspiracy with Sk. Firdaus killed the daughter of the opposite

party no.2 and hanged her body.

3. The petitioner herein is the married sister-in-law (nanad) of the deceased, who also resides in the same district.

4. It is stated that after completion of a purported investigation, the Investigating Agency submitted a report in final form vide Charge Sheet No.

95/2009 dated 27.10.2009 under Sections 498A/304B of the Indian Penal Code against the petitioner and 3 others.

5. It is further submitted by the petitioner that, in the First Information Report as well as the charge sheet, no specific case has been made out against

the petitioner under Sections 498A and 304B of the Indian Penal Code, save and except certain omnibus allegations against the petitioner, herein.

6. FINDINGS:-

From the case diary placed by the learned counsel for the State it appears that the deceased was married only for one year when she died at an age

of only 20 years (approx).

7. The victim died by hanging and the opinion of the doctor in the post mortem report is that the death is suicidal in nature.

8. She died within 11 months of marriage.

9. There are several statements and sufficient materials on record making out a prima facie case in respect of the offences alleged, against the

petitioner herein, for the case to proceed towards trial.

10. The Supreme Court in Daxaben Vs The State of Gujarat & Ors., Criminal Appeal No. 14 of 2022, on July 29, 2022, held that:-

“14. The proposition of law enunciated and/or re-enunciated in the judgments cited above are well settled. Whether the acts alleged

would constitute an offence, would depend upon the facts and circumstances of the case. Each case has to be judged on its own merits.

16. It is not necessary for this Court to go into the question of whether there was any direct or indirect act of incitement to the offence of

abetment of suicide, since the High Court has not gone into that question. Suffice it to mention that even an indirect act of incitement to the

commission of suicide would constitute the offence of abetment of suicide under Section 306 of the IPC.

20. In the aforesaid judgment, the High Court referred to an order dated 6 th December 2019 passed by a three Judge Bench of this Court

in Crl. Appeal No.1852 of 2019 (New India Assurance Co. Ltd. v. Krishna Kumar Pandey) where this Court held that in a revision arising

out of conviction, the High Court could not have sealed the right of the employer to take disciplinary action against the accused for

misconduct in accordance with the Service Rules.

21. In Krishna Kumar Pandey (supra) this Court referred with approval, to the judgment of this Court in State of Punjab v. Davinder Pal

Singh Bhullar and Ors. where this Court held that the High Court was not denuded of inherent power to recall a judgment and/or order

which was without jurisdiction, or in violation of principles of natural justice, or passed without giving an opportunity of hearing to a party

affected by the order or where an order was obtained by abusing the process of Court which would really amount to its being without

jurisdiction. Inherent powers can be exercised to recall such orders.

24. Be that as it may, since the initial order dated 20th October 2020 is also under challenge in these appeals, it is really not necessary for

this Court to delve deeper into the question of whether a final order passed under Section 482 of the Cr.P.C. quashing an FIR could have,

at all, been recalled by the High Court, in the absence of any specific provision in the Cr.P.C. for recall and/or review of such order. The

High Court has, in effect, held that in exceptional circumstances, such orders can be recalled, in exercise of the inherent power of the High

Court, to prevent injustice.

25. The only question in this appeal is whether the Criminal Miscellaneous Applications filed by the accused under Section 482 of the

Cr.P.C. could have been allowed and an FIR under Section 306 of the IPC for abetment to commit suicide, entailing punishment of

imprisonment of ten years, could have been quashed on the basis of a settlement between the complainant and the accused named in the

FIR. The answer to the aforesaid question cannot, but be in the negative.

28. In Monica Kumar (Dr.) v. State of U.P., this Court held that inherent jurisdiction under Section 482 of the Cr.P.C 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.

29. In exceptional cases, to prevent abuse of the process of the Court, the High Court might in exercise of its inherent powers under Section

482 quash criminal proceedings. However, interference would only be justified when the complaint did not disclose any offence, or was

patently frivolous, vexatious or oppressive, as held by this Court in *Mrs. Dhanalakshmi v. R. Prasanna Kumar*.

30. In *Municipal Corporation of Delhi v. Ram Kishan Rohtagi and Others.*, a three-Judge Bench of this Court held:-

“6. It may be noticed that Section 482 of the present Code is the ad verbatim copy of Section 561- A of the old Code. This provision

confers a separate and independent power on the High Court alone to pass orders *ex debito justitiae* in cases where grave and substantial

injustice has been done or where the process of the court has been seriously abused. It is not merely a revisional power meant to be

exercised against the orders passed by subordinate courts. It was under this section that in the old Code, the High Courts used to quash the

proceedings or expunge uncalled for remarks against witnesses or other persons or subordinate courts. Thus, the scope, ambit and range

of Section 561-A (which is now Section 482) is quite different from the powers conferred by the present Code under the provisions of

Section 397. It may be that in some cases there may be overlapping but such cases would be few and far between. It is well settled that the

inherent powers under Section 482 of the present Code can be exercised only when no other remedy is available to the litigant and not

where a specific remedy is provided by the statute. Further, the power being an extraordinary one, it has to be exercised sparingly. If these

considerations are kept in mind, there will be no inconsistency between Sections 482 and 397(2) of the present Code.

7. The limits of the power under Section 482 were clearly defined by this Court in *Raj Kapoor v. State* [(1980) 1 SCC 43 : 1980 SCC (Cri)

72] where Krishna Iyer, J. observed as follows : [SCC para 10, p. 47 : SCC (Cri) p. 76]

“Even so, a general principle pervades this branch of law when a specific provision is made : easy resort to inherent power is not right

except under compelling circumstances. Not that there is absence of jurisdiction but that inherent power should not invade areas set apart

for specific power under the same Code.”

8. Another important consideration which is to be kept in mind is as to when the High Court acting under the provisions of Section 482

should exercise the inherent power insofar as quashing of criminal proceedings are concerned. This matter was gone into in greater detail

in *Smt. Nagawwa v. Veeranna Shivalingappa Konjalgi* [(1976) 3 SCC 736 : 1976 SCC (Cri) 507 : 1976 Supp SCR 123 : 1976 Cri LJ 1533]

where the scope of Sections 202 and 204 of the present Code was considered and while laying down the guidelines and the grounds on

which proceedings could be quashed this Court observed as follows : [SCC para 5, p. 741 : SCC (Cri) pp. 511-12]
“Thus it may be

safely held that in the following cases an order of the Magistrate issuing process against the accused can be quashed or set aside:

(1) where the allegations made in the complaint or the statements of the witnesses recorded in support of the same taken at their face value

make out absolutely no case against the accused or the complaint does not disclose the essential ingredients of an offence which is alleged

against the accused;

(2) where the allegations made in the complaint are patently absurd and inherently improbable so that no prudent person can ever reach a

conclusion that there is sufficient ground for proceeding against the accused;

(3) where the discretion exercised by the Magistrate in issuing process is capricious and arbitrary having been based either on no evidence

or on materials which are wholly irrelevant or inadmissible; and

(4) where the complaint suffers from fundamental legal defects, such as, want of sanction, or absence of a complaint by legally competent

authority and the like.

The cases mentioned by us are purely illustrative and provide sufficient guidelines to indicate contingencies where the High Court can

quash proceedings.”

9. Same view was taken in a later decision of this Court in *Sharda Prasad Sinha v. State of Bihar* [(1977) 1 SCC 505 : 1977 SCC (Cri) 132

: (1977) 2 SCR 357 : 1977 Cri LJ 1146] where Bhagwati, J. speaking for the Court observed as follows : [SCC para 2, p. 506 : SCC (Cri)

p. 133]

“It is now settled law that where the allegations set out in the complaint or the charge-sheet do not constitute any offence, it is competent

to the High Court exercising its inherent jurisdiction under Section 482 of the Code of Criminal Procedure to quash the order passed by the

Magistrate taking cognizance of the offence.

10. It is, therefore, manifestly clear that proceedings against an accused in the initial stages can be quashed only if on the face of the

complaint or the papers accompanying the same, no offence is constituted. In other words, the test is that taking the allegations and the

complaint as they are, without adding or subtracting anything, if no offence is made out then the High Court will be justified in quashing

the proceedings in exercise of its powers under Section 482 of the present Code.”

31. As held by this Court in *State of Andhra Pradesh v. Gourieshetty Mahesh*, the High Court, while exercising jurisdiction under Section

482 of the Cr.P.C, would not ordinarily embark upon an enquiry into whether the evidence is reliable or not or whether there is reasonable

possibility that the accusation would not be sustained.

32. In *Paramjeet Batra v. State of Uttrakhand*, this Court held: “12. While exercising its jurisdiction under Section 482 of the Code the High Court has to be cautious. This power is to be used

sparingly and only for the purpose of preventing abuse of the process of any court or otherwise to secure ends of justice. Whether a

complaint discloses a criminal offence or not depends upon the nature of facts alleged therein. Whether essential ingredients of criminal

offence are present or not has to be judged by the High Court.

33. In *Madhavrao Jiwajirao Scindia v. Sambhajirao Chandrojirao Angre*, a three Judge Bench of this Court summarized the law with

regard to quashing of criminal proceedings under Section 482 of the Cr.P.C. This Court held: “7. The legal position is well settled that when a prosecution at the initial stage is asked to be quashed, the test to be applied by the court

is as to whether the uncontroverted allegations as made prima facie establish the offence. It is also for the court to take into consideration

any special features which appear in a particular case to consider whether it is expedient and in the interest of justice to permit a

prosecution to continue. This is so on the basis that the court cannot be utilised for any oblique purpose and where in the opinion of the

court chances of an ultimate conviction are bleak and, therefore, no useful purpose is likely to be served by allowing a criminal prosecution

to continue, the court may while taking into consideration the special facts of a case also quash the proceeding even though it may be at a

preliminary stage.

34. In *Inder Mohan Goswami v. State of Uttaranchal*, this Court observed: “46. The court must ensure that criminal prosecution is not used as an instrument of harassment or for seeking private vendetta or with

an ulterior motive to pressurise the accused. On analysis of the aforementioned cases, we are of the opinion that it is neither possible nor

desirable to lay down an inflexible rule that would govern the exercise of inherent jurisdiction. Inherent jurisdiction of the High Courts

under Section 482 CrPC though wide has to be exercised sparingly, carefully and with caution and only when it is justified by the tests

specifically laid down in the statute itself and in the aforementioned cases. In view of the settled legal position, the impugned judgment

cannot be sustained.Ã¢â‚¬â€œ

35. It is a well settled proposition of law that criminal prosecution, if otherwise justified, is not vitiated on account of malafides or vendetta.

As said by Krishna Iyer, J. in *State of Punjab v. Gurdial Singh* Ã¢â‚¬â€œif the use of the power for the fulfilment of a legitimate object the

actuation or catalysation by malice is not legicidal.Ã¢â‚¬â€œ

36. In *Kapil Agarwal & Ors. v. Sanjay Sharma & Others*, this Court observed that Section 482 of the Cr.P.C. is designed to achieve the

purpose of ensuring that criminal proceedings are not permitted to degenerate into weapons of harassment.

37. Offence under Section 306 of the IPC of abetment to commit suicide is a grave, non-compoundable offence. Of course, the inherent

power of the High Court under Section 482 of the Cr.P.C. is wide and can even be exercised to quash criminal proceedings relating to non-

compoundable offences, to secure the ends of justice or to prevent abuse of the process of Court. Where the victim and offender have

compromised disputes essentially civil and personal in nature, the High Court can exercise its power under Section 482 of the CrPC to

quash the criminal proceedings. In what cases power to quash an FIR or a criminal complaint or criminal proceedings upon compromise

can be exercised, would depend on the facts and circumstances of the case.

38. However, before exercising its power under Section 482 of the Cr.P.C. to quash an FIR, criminal complaint and/or criminal

proceedings, the High Court, as observed above, has to be circumspect and have due regard to the nature and gravity of the offence.

Heinous or serious crimes, which are not private in nature and have a serious impact on society cannot be quashed on the basis of a

compromise between the offender and the complainant and/or the victim. Crimes like murder, rape, burglary, dacoity and even abetment to

commit suicide are neither private nor civil in nature. Such crimes are against the society. In no circumstances can prosecution be quashed

on compromise, when the offence is serious and grave and falls within the ambit of crime against society.

39. Orders quashing FIRs and/or complaints relating to grave and serious offences only on basis of an agreement with the complainant,

would set a dangerous precedent, where complaints would be lodged for oblique reasons, with a view to extract money from the accused.

Furthermore, financially strong offenders would go scot free, even in cases of grave and serious offences such as murder, rape,

brideburning, etc. by buying off informants/complainants and settling with them. This would render otiose provisions such as Sections 306,

498A, 304-B etc. incorporated in the IPC as a deterrent, with a specific social purpose.

40. In Criminal Jurisprudence, the position of the complainant is only that of the informant. Once an FIR and/or criminal complaint is

lodged and a criminal case is started by the State, it becomes a matter between the State and the accused. The State has a duty to ensure that

law and order is maintained in society. It is for the state to prosecute offenders. In case of grave and serious noncompoundable offences

which impact society, the informant and/or complainant only has the right of hearing, to the extent of ensuring that justice is done by

conviction and punishment of the offender. An informant has no right in law to withdraw the complaint of a noncompoundable offence of a

grave, serious and/or heinous nature, which impacts society.

41. In *Gian Singh v. State of Punjab*, this Court discussed the circumstances in which the High Court quashes criminal proceedings in case

of a non-compoundable offence, when there is a settlement between the parties and enunciated the following principles:-

“58. Where the High Court quashes a criminal proceeding having regard to the fact that the dispute between the offender and the victim

has been settled although the 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

wrongdoing that seriously endangers and threatens the well-being of the 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 the 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 the Prevention of Corruption Act or the

offences committed by public servants while working in that capacity, the settlement between the offender and the 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 the victim and the offender and the 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 FIR if it is satisfied that on the face of such settlement, there is

hardly any likelihood of the 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.

42. In *Narinder Singh v. State of Punjab*, this Court held that in case of heinous and serious offences, which are generally to be treated as

crime against society, it is the duty of the State to punish the offender. Hence, even when there is a settlement, the view of the offender and

victim will not prevail since it is in the interest of society that the offender should be punished to deter others from committing a similar

crime.

43. In *State of Maharashtra v. Vikram Anantrai Doshi*, this Court held:-

"26. ... availing of money from a nationalised bank in the manner, as alleged by the investigating agency, vividly exposit fiscal impurity

and, in a way, financial fraud. The modus operandi as narrated in the charge-sheet cannot be put in the compartment of an individual or

personal wrong. It is a social wrong and it has immense societal impact. It is an accepted principle of handling of finance that whenever

there is manipulation and cleverly conceived contrivance to avail of these kinds of benefits it cannot be regarded as a case having

overwhelmingly and predominatingly civil character. The ultimate victim is the collective. It creates a hazard in the financial interest of the

society. The gravity of the offence creates a dent in the economic spine of the nation. ..."

44. In *CBI v. Maninder Singh*, this Court held:-

"17. In economic offences the Court must not only keep in view that money has been paid to the bank which has been defrauded but

also the society at large. It is not a case of simple assault or a theft of a trivial amount; but the offence with which we are concerned was

well planned and was committed with a deliberate design with an eye on personal profit regardless of consequence to the society at large.

To quash the proceeding merely on the ground that the accused has settled the amount with the bank would be a misplaced sympathy. If the

prosecution against the economic offenders are not allowed to continue, the entire community is aggrieved."

45. In *State of Tamil Nadu v. R. Vasanthi Stanley*, this Court held:-

"14. Lack of awareness, knowledge or intent is neither to be considered nor accepted in economic offences. The submission

assiduously presented on gender leaves us unimpressed. An offence under the criminal law is an offence and it does not depend upon the

gender of an accused. True it is, there are certain provisions in CrPC relating to exercise of jurisdiction under Section 437, etc. therein but

that altogether pertains to a different sphere. A person committing a murder or getting involved in a financial scam or forgery of documents,

cannot claim discharge or acquittal on the ground of her gender as that is neither constitutionally nor statutorily a valid argument. The

offence is gender neutral in this case. We say no more on this score.

15. ¶ A grave criminal offence or serious economic offence or for that matter the offence that has the potentiality to create a dent in the

financial health of the institutions, is not to be quashed on the ground that there is delay in trial or the principle that when the matter has

been settled it should be quashed to avoid the load on the system. ¶

46. In *Parbatbhai Aahir Alias Parbathbhai Bhimsinhbhai Karmur and Others v. State of Gujrat and Another*, a threeJudge Bench of this

Court quoted *Narinder Singh (supra)*, *Vikram Anantrai Doshi (supra)*, *CBI v. Maninder Singh (supra)*, *R. Vasanthi Stanley (supra)* and

held:-

¶“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 insofar 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

misdeemeanour. The consequences of the act complained of upon the financial or economic system will weigh in the balance. ¶

47. In *State of Madhya Pradesh v. Laxmi Narayan & Ors.*, a three-Judge Bench discussed the earlier judgments of this Court and laid down

the following principles:-

¶15. Considering the law on the point and the other decisions of this Court on the point, referred to hereinabove, it is observed and held

as under:

15.1. 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;

15.2. 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;

15.3. 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;

15.4. Offences under Section 307 IPC and the Arms Act, etc. would fall in the category of heinous and serious offences and therefore are to

be treated as crime against the society and not against the individual alone, and therefore, the criminal proceedings for the offence under

Section 307 IPC and/or the Arms Act, etc. which have a serious impact on the society cannot be quashed in exercise of powers under

Section 482 of the Code, on the ground that the parties have resolved their entire dispute amongst themselves. 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 framing 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/delicate parts of the body, nature

of weapons used, etc. However, such an exercise by the High Court would be permissible only after the evidence is collected after

investigation and the charge-sheet is filed/charge is framed and/or during the trial. Such exercise is not permissible when the matter is still

under investigation. Therefore, the ultimate conclusion in paras 29.6 and 29.7 of the decision of this Court in *Narinder Singh* [(2014) 6

SCC 466: (2014) 3 SCC (Cri) 54] should be read harmoniously and to be read as a whole and in the circumstances stated hereinabove;

15.5. While exercising the power under Section 482 of the Code to quash the criminal proceedings in respect of noncompoundable

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.Ã¢â¬â€

48. In Arun Singh and Others v. State of Uttar Pradesh Through its Secretary and Another, this Court held:-

Ã¢â¬â€14. In another decision in Narinder Singh v. State of Punjab (2014) 6 SCC 466 : (2014) 3 SCC (Cri) 54] it has been observed that in

respect of offence against the society it is the duty to punish the offender. Hence, even where there is a settlement between the offender and

victim the same shall not prevail since it is in interests of the society that offender should be punished which acts as deterrent for others

from committing similar crime. On the other hand, there may be offences falling in the category where the correctional objective of criminal

law would have to be given more weightage than the theory of deterrent punishment. In such cases, the court may be of the opinion that a

settlement between the parties would lead to better relations between them and would resolve a festering private dispute and thus may

exercise power under Section 482 CrPC for quashing the proceedings or the complaint or the FIR as the case may be.

15. Bearing in mind the above principles which have been laid down, we are of the view that offences for which the appellants have been

charged are in fact offences against society and not private in nature. Such offences have serious impact upon society and continuance of

trial of such cases is founded on the overriding effect of public interests in punishing persons for such serious offences. It is neither an

offence arising out of commercial, financial, mercantile, partnership or such similar transactions or has any element of civil dispute thus it

stands on a distinct footing. In such cases, settlement even if arrived at between the complainant and the accused, the same cannot

constitute a valid ground to quash the FIR or the charge-sheet.

16. Thus the High Court cannot be said to be unjustified in refusing to quash the charge-sheet on the ground of compromise between the

parties.Ã¢â¬â€

49. In exercise of power under Section 482 of the Cr.P.C., the Court does not examine the correctness of the allegation in the complaint

except in exceptionally rare cases where it is patently clear that the allegations are frivolous or do not disclose any offence.

50. In our considered opinion, the Criminal Proceeding cannot be nipped in the bud by exercise of jurisdiction under Section 482 of the Cr.

P.C. only because there is a settlement, in this case a monetary settlement, between the accused and the complainant and other relatives of

the deceased to the exclusion of the hapless widow of the deceased. As held by the three-Judge Bench of this Court in Laxmi Narayan &

Ors. (supra), Section 307 of the IPC falls in the category of heinous and serious offences and are to be treated as crime against society and

not against the individual alone. On a parity of reasoning, offence under section 306 of the IPC would fall in the same category. An FIR

under Section 306 of the IPC cannot even be quashed on the basis of any financial settlement with the informant, surviving spouse, parents,

children, guardians, care-givers or anyone else. It is clarified that it was not necessary for this Court to examine the question whether the

FIR in this case discloses any offence under Section 306 of the IPC, since the High Court, in exercise of its power under Section 482 CrPC,

quashed the proceedings on the sole ground that the disputes between the accused and the informant had been compromised.Ã¢â¬â¢

11. In the said case (Daxaben Vs The State of Gujarat & Ors., (Supra)) the Court set aside the order of the High Court quashing a proceedings under

Section 306 IPC in view of settlement between the parties.

12. In the present case the victim admittedly was a aged about 20 years at the time of incident and was married for only 11 months.

13. In Gian Singh vs State of Punjab and Anr., Special Leave Petition (Crl.) No. 8989 of 2010, on 24 September, 2012, the Supreme Court held:-

Ã¢â¬â¢57. 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 victimÃ¢â¬â¢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-dominantly 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.Ã¢â‚¬â€œ

14. The present case has to thus proceed towards trial against the petitioner and the other accused persons to be decided in accordance with law, for

ends of justice, as there is prima facie materials in this case against the petitioner to go to trial.

15. Quashing a case of such a nature will cause miscarriage of justice (Daxaben Vs The State of Gujarat & Ors. (Supra)) and (Gian Singh vs State of

Punjab and Anr. (Supra)), and will be clearly an abuse of the process of law.

16. CRR 1463 of 2019 is thus dismissed.

17. The trial court shall make all endeavour to dispose of the case expeditiously.

18. All connected applications, if any, stand disposed of.

19. Interim order, if any, stands vacated.

20. Copy of this judgment be sent to the Trial Court for compliance.

21. Urgent certified website copy of this judgment, if applied for, be supplied expeditiously after complying with all, necessary legal formalities.