Samsuddin Laskar & Ors Vs State Of West Bengal & Anr

Court: Calcutta High Court (Appellate Side)

Date of Decision: Jan. 10, 2025

Acts Referred: Constitution of India, 1950 â€" Article 226
Code of Criminal Procedure, 1973 â€" Section 320, 482
Indian Penal Code, 1860 â€" Section 34, 302, 306

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

Bench: Single Bench

Advocate: Niladri Sekhar Ghosh, Sutanuka Chowdhury, Debasish Roy, Kunal Ganguly

Final Decision: Dismissed

Judgement

Shampa Dutt (Paul), J

1. The present revisional application has been preferred praying for quashing of the proceeding arising out of Baruipore PS case no.560 dated

15.03.2019 under Section 302 read with Section 34 of Indian Penal Code, 1860 and Chargesheet submitted under Section 306 read with Section 34 of

the Indian Penal Code, 1860 corresponding to GR case no.1894 of 2019, SC-168/23 pending before the learned Assistant Sessions Judge, 2nd Court,

Baruipore, South 24 Paraganas.

2. The written complaint in the present case is dated 11.03.2019. In the said complaint it has been alleged that the date of the incident in the present

case is 29.04.2010.

3. From the written complaint it appears that the victim allegedly died on being given poison by the neighbours about 9 years back. The opinion of the

doctor in the postmortem report in the present case has been kept pending for receipt of the chemical examination report of the viscera. The post

mortem report is dated 30.04.2010 and it refers to a postmortem being conducted in respect of Inquest No.224 dated 30.04.2010. No external or

internal injury was noted by the doctor. Admittedly, the complaint has been registered after nine longs years.

4. From the case diary it appears at page 38 it is noted that:-

Ã¢â‚¬Å“this time U/D constable Jaydeb Kayal return to PS and informed me that Baniapukur PS is unable to identify the viscera of deceased Jahangir Mondal.Ã¢â‚¬â€‹

As such, the chemical examination report is unavailable.

5. Chargesheet in the present case has been filed for the offence under Section 306 read with Section 34 of the IPC.

6. The Supreme Court in CBI Vs. Aryan Singh, Criminal Appeal Nos. 1025-1026 of 2023, (Arising out of SLP (Crl.) Nos. 12794-12795 of

2022), it was held:-

Ã¢â‚¬Å“4. Having gone through the impugned common judgment and order passed by the High Court quashing the criminal proceedings and discharging the

accused, we are of the opinion that the High Court has exceeded in its jurisdiction in quashing the entire criminal proceedings in exercise of the limited powers

under Section 482 Cr.P.C. and/or in exercise of the powers under Article 226 of the Constitution of India.

4.1 From the impugned common judgment and order passed by the High Court, it appears that the High Court has dealt with the proceedings before it, as if, the

High Court was conducting a mini trial and/or the High Court was considering the applications against the judgment and order passed by the learned Trial

Court on conclusion of trial. As per the cardinal principle of law, at the stage of discharge and/or quashing of the criminal proceedings, while exercising the

powers under Section 482 Cr.P.C., the Court is not required to conduct the mini trial. The High Court in the common impugned judgment and order has observed

that the charges against the accused are not proved. This is not the stage where the prosecution / investigating agency is/are required to prove the charges. The

charges are required to be proved during the trial on the basis of the evidence led by the prosecution / investigating agency. Therefore, the High Court has

materially erred in going in detail in the allegations and the material collected during the course of the investigation against the accused, at this stage. At the

stage of discharge and/or while exercising the powers under Section 482 Cr.P.C., the Court has a very limited jurisdiction and is required to consider

Ã¢â‚¬Å“whetherÃ, anyÃ, sufficientÃ, materialÃ, isÃ, availableÃ, to proceed further against the accused for which the accused is required to be tried or notÃ¢â‚¬â€‹.

4.2 One another reason pointed by the High Court is that the initiation of the criminal proceedings /proceedings is malicious. At this stage, it is required to be

noted that the investigation was handed over to the CBI pursuant to the directions issued by the High Court. That thereafter, on conclusion of the investigation,

the accused persons have been chargesheeted. Therefore, the High Court has erred in observing at this stage that the initiation of the criminal proceedings /

proceedings is malicious. Whether the criminal proceedings was/were malicious or not, is not required to be considered at this stage. The same is required to be

considered at the conclusion of the trial. In any case, at this stage, what is required to be considered is a prima facie case and the material collected during the

course of the investigation, which warranted the accused to be tried.Ã¢â‚¬â€‹

7. The Supreme Court in Gian Singh Vs. State of Punjab, AIR 2012 SC (Cri) 1796, it was held:-

Ã¢â‚¬Å“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-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.Ã¢â‚¬â€‹

8. The present case is for quashing of the proceedings under Section 306/34 of Indian Penal Code.

9. The Supreme Court in Daxaben Vs The State of Gujarat & Ors., Criminal Appeal NoÃ¢â‚¬Â¦Ã¢â‚¬Â¦of 2022, on July 29, 2022, held that:-

Ã¢â‚¬Å“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:-

Ã¢â‚¬Å“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 definedby 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]

Ã¢â‚¬Å“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.Ã¢â‚¬â€‹

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]

Ã¢â‚¬Å“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 thestatements 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;

Ã, (2) where the allegations made in the complaint are patentlyabsurd 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 inissuing 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 legaldefects, 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.Ã¢â‚¬â€‹

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]

Ã¢â‚¬Å“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.Ã¢â‚¬â€‹

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:Ã¢â‚¬

Ã¢â‚¬Å“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.

Ã¢â‚¬Â¦Ã¢â‚¬â€‹

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:Ã¢â‚¬¬

Ã¢â‚¬Å“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.Ã¢â‚¬â€‹

34.Ã, InÃ, InderÃ, MohanÃ, GoswamiÃ, v.Ã, StateÃ, of Uttaranchal, this Court observed:Ã¢â‚¬¬

Ã¢â‚¬Å“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€‹

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‚¬Å“if the use of the power for the fulfilment of a legitimate object the actuation or catalysation by malice is not

legicidal.Ã¢â‚¬â€‹

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 isonly 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:-

Ã¢â‚¬Å“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 prescribedÃ¢â‚¬â€¹.

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:-

Ã¢â‚¬Å“26. ... availing of money from a nationalised bank in the manner, as alleged by the investigating agency, vividly exposits 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. ...Ã¢â‚¬â€¹

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

Ã¢â‚¬Å“17. Ã¢â‚¬Â¦ 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.Ã¢â‚¬â€‹

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

Ã¢â‚¬Å“14. Ã¢â‚¬Â¦ 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. Ã¢â‚¬Â¦ 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. Ã¢â‚¬Â¦Ã¢â‚¬â€‹

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:-Ã¢â‚¬Å“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 misdemeanour. The consequences of the act complained of upon the financial

or economic system will weigh in the balance.Ã¢â‚¬‹

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:-

Ã¢â‚¬Å“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‚¬Å“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 laiddown, 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 inrefusing 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€‹

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

Section 306 IPC in view of settlement between the parties.

10. In the present case, the case was initially registered under Section 302/34 of IPC, but charge sheet has been submitted under Section 306/34 of

IPC. The question of abatement is subject to the evidence during trial.

11. The case has to thus proceed towards trial, in the interest of Justice. Interference at this stage shall amount to abuse of the process of law.

12. Quashing a case of such a nature will cause miscarriage of justice. (Daxaben Vs The State of Gujarat & Ors. (Supra)).

13. CRR 3001 of 2023 is thus dismissed.

14. Trial court to proceed in accordance with law.

15. Interference will be an abuse of process of law.

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

17. Interim order, if any, stands vacated.

18. Copy of this judgment be sent to the learned Trial Court for necessary compliance.

19. Urgent Photostat certified copy of this judgment, if applied for, be supplied to the parties expeditiously after due compliance.