Daxaben vs The State Of Gujarat on 29 July, 2022

Author: Indira Banerjee

Bench: V. Ramasubramanian, Indira Banerjee

REPORTABL

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL No. …….. OF 2022
(Arising out of SLP (Crl.) No.1132-1155 of 2022)

DAXABEN ….Appell

Versus

THE STATE OF GUJARAT & ORS. ….Responden

JUDGMENT

Indira Banerjee, J.

Leave granted.

2. These Appeals are against the impugned final judgment and order dated 20th October 2020 passed by the High Court of Gujarat at Ahmedabad allowing the Criminal Revisional Applications under Section 482 of the Code of Criminal Procedure 1973 (Cr.P.C), being R/Criminal Misc. Application Nos. 5026 of 2020, 5600 of 2020, 5107 of of 2020, 5524 of 2020, 5166 of 2020, 5162 of 2020, 5739 of 2020 and quashing the FIR being C.R. No. I-11209016200112 dated 1 st March 2020 registered with Himmatnagar 'A' Division Police Station, District Sabarkantha, and also the order dated 29 th July 2021 passed by the High Court dismissing the Criminal Miscellaneous Applications filed by the Appellant, registered as R/Criminal Misc. Application Nos. 10845 of 2021, 10846 of 2021, 10847 of 2021, 10848 of 2021, 10849 of 2021, 10850 of 2021, 10851 of 2021, 10852 of 2021, 10853 of 2021, 10855 of 2021, 10856 of 2021, 10858 of 2021 for recalling the said common final order dated 20th October 2020.

3. The Appellant is the wife of late Shaileshkumar Chimanbhai Patel, hereinafter referred to as the "deceased", who is stated to have committed suicide on 1st March 2020 by consuming poison in his office.

4. One Pinakin Kantibhai Patel, claiming to be a cousin of the deceased, as also an Accountant working for the deceased, lodged an FIR being C.R. No. I-11209016200112 dated 1st March 2020 with Himmatnagar Police Station, District Sabarkantha, naming 12 accused persons, being the applicants in the Criminal Miscellaneous Applications in the High Court under Section 482 of the CrPC, referred to above, alleging that they had committed offence under Section 306 of the Indian Penal Code, 1860 (IPC) of abetting the commission of suicide by the deceased.

5. As per the FIR, the deceased left a hand-written note, the contents whereof are as hereunder:-

> "With due respect, I am to state that I, Shaileshkumar Chimanlal Patel, Proprietor of Jigar Transport, state that I have been cheated. The names and statement are as under
>
> 1. As per the instructions of Anil Mathur, I have paid amounts as under: Anil Mathur, RTO, Jodhpur, Service Ratanpur RTO Check Post, Anil Mathur, Rs.600000/-, Pramod Dadhichi Rs.10,00,000/-, Sunil Mathur, Rs.300000/-, Niharika Mathur Rs.800000/-, Malvika Mathur Rs.300000/-, Niru Mathur Rs.700000/-, Dolly Mathur Rs.300000/-. The accounts of above amounts are not cleared and they have not returned the amounts.
>
> 2. Karni Bhavarsha serving in RTO, Mandar Border, and Rajkuar G. serving in RTO had launched company and amount is given in their RP Powertech company and total amount comes to Rs.3723200/-.
>
> 3. Vijaysinh Bhati who has committed most cheating and fraud with me. I am in credit of Rs.14700000 (Rupees one crore forty seven lakhs only). From this person. I am also in credit of Rs.1,50,000/- from Chandravirsinh Bhati and in credit of Rs.10,00,000 from Padam Bhati. They have taken my CRETA car bearing RT No.6797 and they are not giving my car back. It is requested to do needful."

6. The FIR records :-

> "There is signature in English. The name Patel Shaileshkumar Chimanlal is written in gujarati under the signature. The names of Padam Bhati, Chandravirsinh Bhati, Dolly Mathur, Niru Mathur, Malvika Mathur, Niharika Mathur, Sunil Mathur, Pramod Dadhichi, Anil Mathur, PK Powertech, Kamalpal Mineral Pvt. Ltd., Leena Computerized Ledger Statements are affixed with staple pin. These words are written in the handwriting of Shaileshkumar. I know the handwriting. I had given this chit to Apurvabhai in the office. He had read over the said chit. He told me that this is suicide note of Shaileshkumar.
>
> The name Pramod Dhidhasi is written in the suicide note but the real name is Pramod Dadhichi. That money was given to all persons through Bank except Vijaysinh. Kamalpal Minerals Pvt. Limited of Vijaysinh was given Rs.18,52,000/."

7. In the FIR, it was alleged that the deceased had been making phone calls to the accused persons calling upon them to return his money, but they did not do so. The accused had cheated the deceased of Rs.2,35,73,200/-. The deceased was in acute financial crunch and, therefore, constrained to take his own life.

8. Section 306 of the IPC reads:

> "306. Abetment of suicide. -If any person commits suicide, whoever abets the commission of such suicide, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine."

9. As argued by Ms. Shenoy, learned Senior Counsel appearing on behalf of the Respondents, what is required to constitute alleged abetment of suicide under Section 306 of the IPC is that there must be an allegation of either direct or indirect act of incitement to the commission of the offence of suicide.

10. Ms. Shenoy cited M. Arjunan v. State, Represented by its Inspector of Police1, where this Court held:-

> "7. The essential ingredients of the offence under Section 306 IPC are: (i) the abetment; (ii) the intention of the accused to aid or instigate or abet the deceased to commit suicide. The act of the accused, however, insulting the deceased by using abusive language will not, by itself, constitute the abetment of suicide. There should be evidence capable of suggesting that the accused intended by such act to instigate the deceased to commit suicide. Unless the ingredients of instigation/abetment to commit suicide are satisfied the accused cannot be convicted under Section 306 IPC."

11. Ms. Shenoy also cited Ude Singh & Ors. v. State of Haryana2, where this Court held:

> 16. In cases of alleged abetment of suicide, there must be a proof of direct or indirect act(s) of incitement to the commission of suicide. It could hardly be disputed that the question of cause of a suicide, particularly in the context of an offence of abetment of suicide, remains a vexed one, involving multifaceted and complex 1 (2019) 3 SCC 315 2 (2019) 17 SCC 301 attributes of human behaviour and responses/reactions. In the case of accusation for abetment of suicide, the Court would be looking for cogent and convincing proof of the act(s) of incitement to the commission of suicide. In the case of suicide, mere allegation of harassment of the deceased by another person would not suffice unless there be such action on the part of the accused which compels the person to commit suicide; and such an offending action ought to be proximate to the time of occurrence. Whether a person has abetted in the commission of suicide by another or not, could only be gathered from the facts and circumstances of each case.
>
> 16.1. For the purpose of finding out if a person has abetted commission of suicide by another, the consideration would be if the accused is guilty of the act of instigation of

the act of suicide.

As explained and reiterated by this Court in the decisions above- referred, instigation means to goad, urge forward, provoke, incite or encourage to do an act. If the persons who committed suicide had been hypersensitive and the action of accused is otherwise not ordinarily expected to induce a similarly circumstanced person to commit suicide, it may not be safe to hold the accused guilty of abetment of suicide. But, on the other hand, if the accused by his acts and by his continuous course of conduct creates a situation which leads the deceased perceiving no other option except to commit suicide, the case may fall within the four corners of Section 306 IPC. If the accused plays an active role in tarnishing the self-esteem and self-respect of the victim, which eventually draws the victim to commit suicide, the accused may be held guilty of abetment of suicide. The question of mens rea on the part of the accused in such cases would be examined with reference to the actual acts and deeds of the accused and if the acts and deeds are only of such nature where the accused intended nothing more than harassment or snap show of anger, a particular case may fall short of the offence of abetment of suicide. However, if the accused kept on irritating or annoying the deceased by words or deeds until the deceased reacted or was provoked, a particular case may be that of abetment of suicide. Such being the matter of delicate analysis of human behaviour, each case is required to be examined on its own facts, while taking note of all the surrounding factors having bearing on the actions and psyche of the accused and the deceased."

12. Ms. Shenoy referred to Ramesh Kumar v. State of Chhatisgarh3, where this Court defined 'instigate' as under:-

> "Instigation is to goad, urge forward, provoke, incite or encourage to do an act." 3 (2001) 9 SCC 618

13. In S.S. Chheena v. Vijay Kumar Mahajan and Another. 4, cited on behalf of the Respondent, this Court observed:-

> "25. Abetment involves a mental process of instigating a person or intentionally aiding a person in doing of a thing. Without a positive act on the part of the accused to instigate or aid in committing suicide, conviction cannot be sustained. The intention of the legislature and the ratio of the cases decided by this Court is clear that in order to convict a person under Section 306 IPC there has to be a clear mens rea to commit the offence. It also requires an active act or direct act which led the deceased to commit suicide seeing no option and that act must have been intended to push the deceased into such a position that he committed suicide."

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.

15. In this case, however, it appears that the High Court did not even address to itself, the question of whether the allegations in the FIR constituted an offence under Section 306 IPC or not. The FIR

was quashed in view of a settlement between the accused named in the FIR and the complainant.

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. 4 (2010) 12 SCC 190

17. In Court, it was submitted that the parties had amicably resolved their disputes. In support of such submission, affidavits of Settlement of Disputes, signed by the complainant and other family members of the deceased were placed on record.

18. The High Court held:

> "9. Since now, the dispute with reference to the impugned FIR is settled and resolved by and between parties which is confirmed by the original complainant through their learned advocate, the trial would be futile and any further continuation of proceedings would amount to abuse of process of law. Therefore, the impugned FIR is required to be quashed and set aside.
>
> 10. Resultantly, the applications are allowed. The impugned FIR being No. C.R.No. I-11209016200112 of 2020 registered with Himmatnagar 'A' Division Police Station, District Sabarkantha and all other consequential proceedings arising out of said FIR are hereby quashed and set aside qua the applicants."

19. By the common order dated 29 th July 2021, also impugned in these appeals, the prayer of the Appellant for recalling the order dated 20th October 2020 was declined. The High Court held:-

> "22. ...However, as discussed herein above, this Court has passed an order dated 20.10.2020 after considering the settlement arrived at between the original first informant, who is cousin brother of the deceased and was working as an Accountant of the firm of the deceased. Further, investigating agency has verified about the genuineness of the settlement arrived at between the parties. It is not in dispute that the present applicant is a third party – as stated in Paragraph No.1 of the application and, hence, so far as the FIR in question is concerned, she is merely a witness in the FIR. Therefore, when this Court has passed an order after giving an opportunity of hearing, the original first informant – cousin brother of the deceased, the order dated 20.10.2020 passed by this Court is not required to be recalled while exercising power under Section 482 of the Code.
>
> 23. At this stage, it is once again required to be noted that the applicant has stated in the memo of application at Page No.9 that the respondent No.3 – original first informant has pocketed hefty amount from an individual original accused and is totally out of picture post allowing of the quashing petition and is not in contact with

> the present applicant. Thus, it appears that after settling the dispute by the respondent No.3 – original first informant with the original accused, he has not given/paid the said amount to the applicant, however, for the reasons, it is always open for the applicant to file appropriate proceeding against the respondent No.3 – original first informant. Therefore, the present application, which is filed for recalling the order, is not maintainable, and in the facts of the present case, this Court is not inclined to exercise the powers under Section 482 of the Code for recalling of the order dated 20.10.2020.
>
> 24. In view of the aforesaid discussion, all these applications are dismissed."

20. In the aforesaid judgment, the High Court referred to an order dated 6th 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 Pandey5) 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. 6 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 5 2019 SCC Online 1786 6 (2011) 14 SCC 770 really amount to its being without jurisdiction. Inherent powers can be exercised to recall such orders.

22. The High Court rightly found, in effect, that it had the inherent power to recall a judgment and/or order which was without jurisdiction or a judgment and/or order passed without hearing a person prejudicially affected by the judgment and/or order. The High Court, however, fell in error in not recalling the order dated 20 th October 2020. The High Court did not address to itself, the question of whether it had jurisdiction to quash a criminal complaint under Section 306 of the IPC, which is a grave non-compoundable offence, entailing imprisonment of ten years, on the basis of a settlement between the parties.

23. The High Court erred in declining the prayer of the Appellant for recalling its order dated 20th October 2020, passed without hearing the wife of the deceased only because the original informant/complainant, a cousin brother and an employee of the deceased had been heard. Hearing a cousin-cum-employee of the deceased cannot and does not dispense with the requirement to give the wife of the deceased a hearing. The wife of the deceased would have greater interest than cousins and employees in prosecuting accused persons charged with the offence of abetting the suicide of her husband.

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.

26. Section 482 of the Cr.P.C provides :— "482. Saving of inherent powers of High Court.—Nothing in this Code shall be deemed to limit or affect the inherent powers of the High Court to make such orders as may be necessary to give effect to any order under this Code, or to prevent abuse of the process of any Court or otherwise to secure the ends of justice."

27. Even though, the inherent power of the High Court under Section 482 of the Cr.P.C., to interfere with criminal proceedings is wide, such power has to be exercised with circumspection, in exceptional cases. Jurisdiction under Section 482 of the Cr.P.C is not to be exercised for the asking.

28. In Monica Kumar (Dr.) v. State of U.P.7, 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 Kumar8.

30. In Municipal Corporation of Delhi v. Ram Kishan Rohtagi and Others.9, 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 7 (2008) 8 SCC 781 8 AIR 1990 SC 494 : 1990 Supp SCC 686 9 (1983) 1 SCC 1 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 Mahesh10, 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 Uttrakhand11, 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 10 (2010) 11 SCC 226 11 (2013) 11 SCC 673 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 Angre12, 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 Uttaranchal13, 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." 12 (1988) 1 SCC 692 13 (2007) 12 SCC 1

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 Singh14 "if the use of the power for the fulfilment of a legitimate object the actuation or catalysation by malice is not legicidal."

36. In Kapil Agarwal & Ors. v. Sanjay Sharma & Others15, 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.

14 (1980) 2 SCC 471 15 (2021) 5 SCC 524

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, bride- burning, etc. by buying off informants/complainants and settling with them. This would

render otiose provisions such as Sections 306, 498- A, 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 non-compoundable 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 non- compoundable offence of a grave, serious and/or heinous nature, which impacts society.

41. In Gian Singh v. State of Punjab16, 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 16 (2012) 10 SCC 303 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 Punjab17, 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 18, this Court held:-

> "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. ..." 17 (2014) 9 SCC 466 18 (2014) 15 SC 29

44. In CBI v. Maninder Singh19, 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 Stanley20, 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 21, a three- Judge Bench of this Court quoted Narinder Singh (supra), Vikram 19 (2016) 1 SCC 389 20 (2016) 1 SCC 376 21(2017) 9 SCC 641 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 misdemeanour. 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 .22, 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;

22 (2019) 5 SCC 688 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 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."

48. In Arun Singh and Others v. State of Uttar Pradesh Through its Secretary and Another23, this Court held:-

"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 23 (2020) 3 SCC 736 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."

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.

51. The appeals are allowed. The impugned orders of the High Court are set aside. The observations made in this judgment are not to be construed as any observation on the merits of the contentions of the respective parties.

.....,J.

[INDIRA BANERJEE] .....,J [V. RAMASUBRAMANIAN] NEW DELHI;

JULY 29, 2022.