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JUDICIAL INTERPRETATION OF SECTION 482 OF CRIMINAL PROCEDURE CODE

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Introduction

Section 482 Cr.P.C. : "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."

Section 482 of the Code delineates the inherent power of the High Court, which the Court assumes by the virtue of it being a superior Court. This power is ensured by the Code for two fundamental purposes :

1. Prevent abuse of the process of any lower Court,

2. Otherwise to secure the ends of justice.

The intention of the legislators behind incorporation of the expression : "Nothing in this Code" in Section 482, is to make it an "overriding provision", *i.e.*, a provision which is not restricted or limited by any other provision of the Code, save the circumstances where there is an express general bar, against usage of such power, in the Code. Section 482 confers no new powers on the High Court; it merely safeguards its existing inherent powers. The High Court should not be approached under Section 482 if there is a specific provision in the Code for the redress of the grievance of an aggrieved party. It is to be exercised very sparingly and with due caution and care about the express bar of law engrafted in any other provision of the Code. In different situations, the inherent power may be exercised in different ways to achieve its aforementioned two-fold objectives. Formation of opinion on the overall circumstances of the case by the High Court before it exercise inherent power under Section 482 on either of its objectives is a *sine qua non*. Precise and inflexible guidelines to regulate the powers of the Court under Section 482 are neither practical nor desirable.

Theoretical underpinnings of Section 482

In the very nature of its establishment, that an obligation exists on the High Court to undo a wrong in course of administration

of justice and to prevent continuation of unnecessary judicial process. Such an obligation roots from the higher normative principles of law, particularly :

(a) *quando lex aliquid alicui concedit, conceditur et id sine qua res ipsa esse non potest*, the full import of which is that whenever anything is authorised, and especially if, as a matter of duty, required to be done by law, it is found impossible to do that thing unless something else not authorised in express terms be also done, may also be done, then that something else will be supplied by necessary intendment.

(b) *Ex debito justitiae* is inbuilt in such exercise; the whole idea is to do real, complete and substantial justice for which it exists (*Zandu Pharmaceutical Works Ltd. and others v. Mohd. Sharaful Haque and another*, (2005) 1 SCC 122 = AIR 2005 SC 9).

The jurisdiction of the Court under Section 397 can be exercised so as to examine the correctness and legality of an order passed by the trial Court or other inferior Court. The jurisdiction under Section 397 is a very limited one. The legality, propriety or correctness of an order passed by a Court is the very foundation of exercise of jurisdiction under Section 397, but ultimately, it also requires justice to be done. The jurisdiction could be exercised when there is palpable error, non-compliance with the provisions of law, the decision is completely erroneous or where the judicial discretion is exercised arbitrarily. On the other hand, Section 482 is based upon the maxim *quando lex liquid alicuiconcedit, conceder videtur id quo res ipsa esse non protest, i.e.*, when the law gives anything to anyone, it also gives all those things without which the thing itself would be unavoidable. The wide powers granted by this provision are an expression of this.

The inherent powers under Section 482 can be exercised only when no other remedy is available to the litigant and NOT where a specific remedy is provided by the statute. If an effective alternative remedy is available, the High Court will not exercise its powers under this section, especially when the applicant may not have availed of that remedy.

Precedential Matrix

In the previous section, the legal maxims which act as the foundational framework for Section 482 were dealt with. In this section, the primary focus is upon the case laws deciphered by Courts of India as well as other countries.

In *Connelly v. DPP*, (1964) AC 1254, Lord *Devlin* stated that where particular criminal proceedings constitute an abuse of process, the Court is empowered to refuse to allow the indictment to proceed to trial. Lord *Salmon* in *DPP v. Humphrys*, (1977) AC 1, stressed the importance of the inherent power of the higher Courts, when he observed that it is only if the prosecution amounts to an abuse of the process of the Court and is oppressive and vexatious that the Judge has the power to intervene. He further mentioned that the Court's power to prevent such abuse is of great constitutional importance and, thus, should be preserved at any cost.

In *R.P. Kapur v. State of Punjab*, AIR 1960 SC 866, this Court summarized some categories of cases where inherent power can and should be exercised to quash the proceedings :

(1) where it manifestly appears that there is a legal bar against the institution or continuance of the proceedings;

(2) where the allegations in the First Information Report or complaint taken at their face value and accepted in their entirety do not constitute the offence alleged;

(3) where the allegations constitute an offence, but there is no legal evidence adduced or the evidence adduced clearly or manifestly fails to prove the charge.

In *State of Karnataka v. L. Muniswamy and others*, (1977) 2 SCC 699, a three-Judge Bench of Supreme Court held :

> "In the exercise of this wholesome power, the High Court is entitled to quash a proceeding if it comes to the conclusion that allowing the proceeding to continue would be an abuse of the process of the Court or that the ends of justice require that the proceeding ought to be quashed. The saving of the High Court's inherent powers, both in civil and criminal matters, is designed to achieve a salutary public purpose which is that a Court proceeding ought not to be permitted to degenerate into a weapon of harassment or persecution…. The ends of justice are higher than the ends of mere law though justice has got to be administered according to laws made by the Legislature. The compelling necessity for making these observations is that without a proper realisation of the object and purpose of the provision which seeks to save the inherent powers of the High Court to do justice between the State and its subjects, it would be impossible to appreciate the width and contours of that salient jurisdiction (*State of Karnataka v. L. Muniswamy and others* (supra))."

In *Madhu Limaye v. State of Maharashtra*, (1977) 4 SCC 551, three Bench held that the following principles would govern the exercise of inherent jurisdiction of the HC :

(1) Power is not to be resorted to, if there is specific provision in code for redress of grievances of aggrieved party.

(2) It should be exercised sparingly to prevent abuse of process of any Court or otherwise to secure ends of justice.

(3) It should not be exercised against the express bar of the law engrafted in any other provision of the Code.

In *Raj Kapoor and others v. State and others*, (1980) 1 SCC 43 and various similar cases, (in *Simrikhia v. Dolley Mukherjee and Chhabi Mukherjee and another*, (1990) 2 SCC 437; *Sushil Suri v. Central Bureau of Investigation and another*, (2011) 5 SCC 708; *Arun Shankar Shukla v. State of Uttar Pradesh and others*, AIR 1999 SC 2554; *Dinesh Dutt Joshi v. State of Rajasthan and another*, (2001) 8 SCC 570; *State of Karnataka v. M. Devendrappa and another*, (2002) 3 SCC 89; *Inder Mohan Goswami and another v. State of Uttaranchal and others*, AIR 2008 SC 251), the Supreme Court has clearly laid down that :

> "Section 482 Code of Criminal Procedure itself envisages three circumstances under which the inherent jurisdiction may be exercised by the High Court, namely,
>
> (1) To give effect to an order under Code of Criminal Procedure;
>
> (2) To prevent an abuse of the process of Court; and
>
> (3) To otherwise secure the ends of justice, (in *Simrikhia v. Dolley Mukherjee and Chhabi Mukherjee and another*, (1990) 2 SCC 437; *Sushil Suri v. Central Bureau of Investigation and another*, (2011) 5 SCC 708; *Arun Shankar Shukla v. State of Uttar Pradesh and others*, AIR 1999 SC 2554; *Dinesh Dutt Joshi v. State of Rajasthan and another*, (2001) 8 SCC 570; *State of Karnataka v. M. Devendrappa and another*, (2002) 3 SCC 89; *Inder Mohan Goswami and another v. State of Uttaranchal and others*, AIR 2008 SC 251)."

In the landmark case of *State of Haryana v. Bhajan Lal*, 1992 SCC (Cri.) 426, a two-Judge Bench of the Supreme Court of India considered in detail, the provisions of Section 482 and the power of the High Court to quash criminal proceedings or FIR. The Supreme Court summarized the legal position by laying the following guidelines to be followed by High Courts in exercise of their inherent powers to quash a criminal complaint :

(1) Where the allegations made in the First Information Report or the complaint,

even if they are taken at their face value and accepted in their entirety do not *prima facie* constitute any offence or make out a case against the accused.

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

(3) Where the allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

(4) Where the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

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

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

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

General Areas of Exercise of Inherent Power under Section 482

In this part of the article, we will ponder upon various broad categories in which the High Courts have resorted to the use of inherent powers granted under Section 482 of Cr.P.C.

Compounding of Non-Compoundable Offences

The Supreme Court in *Shiji alias Pappu and others v. Radhika and another*, (2011) 10 SCC 705, held that an offence not being compoundable under Section 320 of the Code, is by itself no reason for the High Court to refuse exercise of its power under Section 482.

In *Gian Singh v. State of Punjab and others*, (2010) 15 SCC 118, it was held that 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. The facts and circumstances of the case alongwith the nature and gravity of the crime reported are to be borne in mind, when the High Court exercises its inherent powers.

In *Manoj Sharma v. State and others*, (2008) 16 SCC 1, the Court was concerned with the question whether an F.I.R. under Section 420/468/471/34/120-B IPC can be quashed either under Section 482 of the Code or under Article 226 of the Constitution when the accused and the complainant have compromised and settled the matter between themselves. The apex Court cleared this ambiguity in the following manner :

"The ultimate exercise of discretion under Section 482 Cr.PC or under Article 226 of the Constitution is with the Court which has to exercise such jurisdiction in the facts of each case. It has been explained that the said power is in no way limited by the provisions of Section 320 CrPC."

In *Satya Narayan Sharma v. State of Rajasthan*, (2001) 8 SCC 607, the Supreme Court considered the provisions of the Prevention of Corruption Act (P.C. Act) and held that there could be no stay of a trial under the act. It was clarified that that does not mean that the provisions of Section 482 of the Cr.PC cannot be taken recourse to, but even if a litigant approaches the High Court under Section 482 of the Cr.PC and that petition is entertained, the trial under the P.C. Act cannot be stayed. The litigant may convince the Court to expedite the hearing of the petition filed, but merely because the Court is not in a position to grant an early hearing would not be a ground to stay the trial even temporarily. With respect, we do not agree with the proposition that for the purposes of a stay of proceedings recourse could be had to Section 482 of the Cr.PC our discussion above makes this quite clear.

In *Ratilal Bhanji Mithani v. Assistant Collector of Customs*, 1967 (3) SCR 926, at Pg.930-931, the SC had occasion to deal with the inherent power of the High Court under Section 561-A of the Code of Criminal Procedure, 1898, which is equivalent to Section 482 of the Code of Criminal Procedure, 1973. It was held that the said section did not confer any power, but only declared that nothing in the Code shall limit or affect the existing inherent powers of the High Court.

In *State of Karnataka v. M. Devendrappa and another* (supra), a three-Judge Bench had occasion to consider the ambit of Section 482 Cr.PC. By analysing the scope of Section 482 Cr.PC, this Court laid down that authority of the Court exists for advancement of justice and if any attempt is made to abuse that authority so as to produce injustice the Court has power to prevent abuse. It further held that Court would be justified to quash any proceeding if it finds that initiation/continuance of it amounts to abuse of the process of Court or quashing of these proceedings would otherwise serve the ends of justice.

In *State of Karnataka v. L. Muniswamy and others* (supra), it was observed that the wholesome power under Section 482 Cr.PC entitles the High Court to quash a proceeding when it comes to the conclusion that allowing the proceeding to continue would be an abuse of the process of the Court or that the ends of justice require that the proceeding ought to be quashed. The High Courts have been invested with inherent powers, both in civil and criminal matters, to achieve a salutary public purpose. A Court proceeding ought not to be permitted to degenerate into a weapon of harassment or persecution. The Court observed in this case that ends of justice are higher than the ends of mere law though justice must be administered according to laws made by the Legislature. This case has been followed in a large number of subsequent cases of this Court and other Courts.

In *State of Bihar and another v. J.A.C. Saldanha and others*, (1980) 1 SCC 554 at Pg.574 the SC disapproved the exercise of the extraordinary power of the High Court in issuing a prerogative writ quashing the prosecution solely on the basis of the averments made in the affidavit in the following words : "*The High Court in exercise of the extraordinary jurisdiction committed a grave error by making observations on seriously disputed questions of facts taking its cue from affidavits which in such a situation would hardly provide any reliable material. In our opinion the High Court was clearly in error in giving the direction virtually amounting to a mandamus to close the case before the investigation is complete. We say no more.*"

In *Madhavrao Jiwajirao Scindia and others v. Sambhajirao Chandrojirao Angre and others*, (1988) 1 SCC 692, it was observed in Para 7 as : "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 utilized for any oblique purpose and where in the opinion of the Court chances of an ultimate conviction is 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".

In *State of Bihar v. Murad Ali Khan and others*, (1988) 4 SCC 655, this Court observed that the jurisdiction under Section 482 Cr.P.C., has to be exercised sparingly and with circumspection. The High Court should not embark upon an enquiry whether the allegations in the complaint are likely to be established by evidence or not..

In the case *Janata Dal v. H.S. Chowdhary and others*, (1992) 4 SCC 305, the apex Court observed thus : "The criminal Courts are clothed with inherent power to make such orders as may be necessary for the ends of justice. Such power though unrestricted and undefined should not be capriciously or arbitrarily exercised, but should be exercised in appropriate cases, *ex debito justitiae* to do real and substantial justice for the administration of which alone the Courts exist. The powers possessed by the High Court under Section 482 of the Code are very wide and the very plentitude of the power requires great caution in its exercise. Courts must be careful to see that its decision in exercise of this power is based on sound principles."

In *Roy V.D. v. State of Kerala*, (2000) 8 SCC 590, it was observed thus : "It is well settled that the power under Section 482 Cr.PC has to be exercised by the High Court, *inter alia*, to prevent abuse of the process of any Court or otherwise to secure the ends of justice. Where criminal proceedings are initiated based on illicit material collected on search and arrest which are per se illegal and vitiate not only a conviction and sentence based on such material but also the trial itself, the proceedings cannot be allowed to go on as it cannot but amount to abuse of the process of the Court; in such a case not quashing the proceedings would perpetuate abuse of the process of the Court resulting in great hardship and injustice to the accused. In our opinion, exercise of power under Section 482 Cr.PC to quash proceedings in a case like the one on hand, would indeed secure the ends of justice."

In *Zandu Pharmaceutical Works Ltd. and others v. Mohd. Sharaful Haque and another*, (2005) 1 SCC 122 = AIR 2005 SC 9, observed thus :—

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

In *Indian Oil Corporation v. NEPC India Ltd. and others*, (2006) 6 SCC 736, Supreme Court again cautioned about a growing tendency in business circles to convert purely civil disputes into criminal cases by using Section 482. The Court noticed the prevalent impression that civil law remedies are time consuming and do not adequately protect the interest of lenders/creditors. The Court further observed that "*any effort to settle civil disputes and claims, which do not involve any criminal offence, by applying pressure through criminal prosecution should be deprecated and discouraged*."

In the case *Central Bureau of Investigation v. Ravi Shankar Srivastava, IAS and another*, (2006) 7 SCC 188, the apex Court reiterated the same and observed that the powers possessed by the High Court under Section 482 Cr.PC are very wide and the very plenitude of the power requires great caution in its exercise. The Court must be careful to see that the decision in exercise of this power is based on sound principles.

In *Satya Narayan Sharma v. State of Rajasthan*, (2001) 8 SCC 607, the Court considered the provisions of the PC Act and held that there could be no stay of a trial under the PC Act. It was clarified that that does not mean that the provisions of Section 482 of the Cr.PC cannot be taken recourse to.

In *G. Sagar Suri and another v. State of U.P. and others*, AIR 2000 SC 754 = (2000) 2 SCC 636, it was held that : "Jurisdiction under Section 482 of the Code has to be exercised with great care. In exercise of its jurisdiction the High Court is not to examine the matter superficially. It is to be seen if a matter, which is essentially of a civil nature, has been given a cloak of criminal offence. Criminal proceedings are not a short cut of other remedies available in law. Before issuing process a criminal Court has to exercise a great deal of caution. For the accused it is a serious matter. This Court has laid certain principles on the basis of which the High Court is to exercise its jurisdiction under Section 482 of the Code. Jurisdiction under this section has to be exercised to prevent abuse of the process of any Court or otherwise to secure the ends of justice."

Matrimonial Disputes

Section 482 is frequently sought in cases of matrimonial disputes. One of the scenarios is where the parties have mutually settled their differences, however, it is not permissible to quash the criminal proceedings as the complaints were registered under Sections 498-A and 406 of Indian Penal Code being which are non-compoundable.

In *Pepsi Food Ltd. and another v. Special Judicial Magistrate and others*, (1998) 5 SCC 749, the Supreme Court with reference to *Bhajan Lal's* case (supra), observed that the guidelines laid therein as to where the Court will exercise jurisdiction under Section 482 of the Code cannot be inflexible or laying rigid formulae. Exercise of such power would depend upon the facts and circumstances of each case but with the sole purpose to prevent abuse of the process of any Court or otherwise to secure the ends of justice. It is well settled that these powers have no limits. Of course, where there is more power, it becomes necessary to exercise utmost care and caution while invoking such powers.

In *State of Karnataka v. L. Muniswamy and others* (supra), considering the scope of inherent power of quashing under Section 482, this Court held that in the exercise of this wholesome power, the High Court is entitled to quash proceedings if it comes to the conclusion that ends of justice so require.

In *Madhavrao Jiwajirao Scindia and others v. Sambhajirao Chandrojirao Angre and others* (supra), it was held that while exercising inherent power of quashing under Section 482, it is for the High 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. 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 proceedings.

In *Pratibha Rani v. Suraj Kumar*, (1985) 2 SCC 370, it was held that : "the very concept of the matrimonial home cannot a jointness of possession and custody by the spouses even with regard to the movable properties exclusively owned by each of them. It is, therefore, inapt to view the same in view of the conjugal relationship as involving any entrustment or passing of dominion over properly day-to-day by the husband to the wife or *vice versa*. Consequently, barring a special written agreement to the contrary, no question of any entrustment or dominion over property would normally arise during coverture or its imminent break-up. Therefore, the very essential pre-requisites and the core ingredients of the offence under Section 406 of the Penal Code would be lacking in a charge of criminal breach of trust of property by one spouse against the other. Inevitably, therefore, the purported allegations of breach of trust betwixt husband and wife so long as the conjugal relationship lasts and the matrimonial home subsists, cannot constitute an offence under Section 406 of the Indian Penal Code, subject to any special written agreement. Equally, as against the close relations of the husband, no facile presumption of entrustment and dominion over the dowry can be raised *prima facie* and this inevitably has to be by a subsequent conscious act of volition which must be specifically alleged and conclusively established by proof. Lastly, because of the definition in Section 2 of the Dowry Prohibition Act, the offences under the said Act cannot come within the ambit of Section 406 of the Indian Penal Code as these cannot stand together on the same set of facts."

In *G.V. Rao v. L.H.V. Prasad and others*, (2000) 3 SCC 693, are very apt for determining the approach required to be kept in view in matrimonial dispute by the Courts, the Court said that marriage is a sacred ceremony, the main purpose of which is to enable the young couple to settle down in life and live peacefully. But little matrimonial skirmishes suddenly erupt which often assume serious proportions resulting in commission of heinous crimes in which elders of the family are also involved with the result that those who could have counselled and brought about rapprochement are rendered helpless on their being arrayed as accused in the criminal case. There are many other reasons which need not be mentioned here for not encouraging matrimonial litigation so that the parties may ponder over their defaults and terminate their disputes amicably by mutual agreement instead of fighting it out in a Court of law where it takes years and years to conclude and in that process the parties lose their "young" days in chasing their "cases" in different Courts.

In *Jitendra Raghuvanshi and others v. Babita Raghuvanshi and another*, (2013) 4 SCC 58, the Hon'ble Court held "There has been an outburst of matrimonial disputes in recent times. The institution of marriage occupies an important place and it has an important role to play in the society. Therefore, every effort should be made in the interest of the individuals in order to enable them to settle down in life and live peacefully. If the parties ponder over their defaults and terminate their disputes amicably by mutual agreement instead of fighting it out in a Court of law, in order to do complete justice in the matrimonial matters, the Courts should be less hesitant in exercising its extraordinary jurisdiction. It is trite to state that the power under Section 482 should be exercised sparingly and with circumspection only when

the Court is convinced, on the basis of material on record, that allowing the proceedings to continue would be an abuse of the process of the Court or that the ends of justice require that the proceedings ought to be quashed. We also make it clear that exercise of such power would depend upon the facts and circumstances of each case and it has to be exercised in appropriate cases in order to do real and substantial justice for the administration of which alone the Courts exist. It is the duty of the Courts to encourage genuine settlements of matrimonial disputes and Section 482 of the Code enables the High Court and Article 142 of the Constitution enables this Court to pass such orders."

Criminal Offences of Civil Nature

In *Narinder Singh v. State of Punjab*, (2014) 6 SCC 466, Dr. Justice *A.K. Sikri*, speaking for a Bench of two learned Judges of this Court observed that in respect of offences against society, it is the duty of the State to punish the offender. In consequence, deterrence provides a rationale for punishing the offender. Hence, even when there is a settlement, the view of the offender and victim will not prevail since if it is in the interest of society that the offender should be punished to deter others from committing a 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 deterrence. In such a case, 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. The Court observed that the timing of a settlement is of significance in determining whether the jurisdiction under Section 482 should be exercised.

Parbatbhai Aahir and others v. State of Gujarat, (2017) 9 SCC 641, acknowledging the High Court's inherent power, said that the Court needs to evaluate whether an exercise of its inherent power is called for when quashing a criminal complaint or proceeding. It creates a distinction between using the power to quash FIRs and to compound offences – the latter is to be governed by Section 320 of the Code and not by Section 482. The former is to depend on the facts of the case. In the exercise of the power 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.

Criminal cases with a significant civil element are to be treated differently. They can be quashed with the inherent power if a private settlement is reached if it is seen that the continuation of the case can be oppressive or if the chance for a conviction are low.

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.

In *Kamaladevi Agarwal v. State of West Bengal and others*, (2002) 1 SCC 555, the apex Court has observed as under :

> "This Court has consistently held that the revisional or inherent powers of quashing the proceedings at the initial stage should be exercised sparingly and only where the allegations made in the complaint or the FIR, even if taken at their face value and

accepted in entirety, do not *prima facie* disclose the commission of an offence. Disputed and controversial facts cannot be made the basis for the exercise of the jurisdiction."

In *Arun Bhandari v. State of Uttar Pradesh and others*, (2013) 2 SCC 801, this Court has held that if the allegations in the First Information Report and not frivolous, *mala fide* or vexatious, it cannot be simply quashed for the reason that civil suit is also pending in the matter.

In the case *R.P. Kapur v. State of Punjab*, AIR 1960 SC 866, the Court summarized some categories of cases where inherent power can and should be exercised to quash the proceedings :

(i) where it manifestly appears that there is a legal bar against the institution or continuance of the proceedings;

(ii) where the allegations in the First Information Report or complaint taken at their face value and accepted in their entirety do not constitute the offence alleged;

(iii) where the allegations constitute an offence, but there is no legal evidence adduced or the evidence adduced clearly or manifestly fails to prove the charge.

The powers possessed by the High Court under Section 482 of the Code are very wide and the very plenitude of the power requires great caution in its exercise. The Court must be careful to see that its decision in exercise of this power is based on sound principles. The inherent power should not be exercised to stifle a legitimate prosecution. The High Court should normally refrain from giving a *prima facie* decision in a case where all the facts are incomplete and hazy; more so, when the evidence has not been collected and produced before the Court and the issues involved, whether factual or legal, are of such magnitude that they cannot be seen in their true perspective without sufficient material.

No hard and fast rule can be laid down in regard to cases in which the High Court will exercise its extraordinary jurisdiction of quashing the proceedings at any stage.

On Perjury and Misuse of Criminal Courts

The Court in *State of Karnataka v. L. Muniswamy and others*, AIR 1977 SC 1489, observed that the wholesome power under Section 482 Cr.PC entitles the High Court to quash a proceeding when it comes to the conclusion that allowing the proceeding to continue would be an abuse of the process of the Court or that the ends of justice require that the proceeding ought to be quashed. The High Courts have been invested with inherent powers, both in civil and criminal matters, to achieve a salutary public purpose. A Court proceeding ought not to be permitted to degenerate into a weapon of harassment or persecution. The Court observed in this case that ends of justice are higher than the ends of mere law though justice must be administered according to laws made by the Legislature. This case has been followed in a large number of subsequent cases of this Court and other Courts.

In *Chandrapal Singh and others v. Maharaj Singh and another*, AIR 1982 SC 1238, in a landlord and tenant matter where criminal proceedings had been initiated, the Court observed as under :

"A frustrated landlord after having met his waterloo in the hierarchy of civil Courts, has further enmeshed the tenant in a frivolous criminal prosecution which *prima facie* appears to be an abuse of the process of law. The facts when stated are so telling that the further discussion may appear to be superfluous."

"Noting that perjury was on the rise, the Court held that perpetrators of the same,

if allowed to use criminal Courts towards petty purposes, would harm the integrity of the system and hence the same should be curbed."

The Court in *Madhavrao Jiwajirao Scindia and others v. Sambhajirao Chandrojirao Angre and others*, AIR 1988 SC 709, observed in Para 7 as under :

"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 utilized for any oblique purpose and where in the opinion of the Court chances of an ultimate conviction is 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."

In *G. Sagar Suri and another v. State of U.P. and others* (supra), the apex Court observed that "it is the duty and obligation of the criminal Court to exercise a great deal of caution in issuing the process particularly when matters are essentially of civil nature."

In the case *Roy V.D. v. State of Kerala*, AIR 2001 SC 137, it was observed thus :

"It is well-settled that the power under Section 482 Cr.PC has to be exercised by the High Court, *inter alia*, to prevent abuse of the process of any Court or otherwise to secure the ends of justice. Where criminal proceedings are initiated based on illicit material collected on search and arrest which are *per se* illegal and vitiate not only a conviction and sentence based on such material but also the trial itself, the proceedings cannot be allowed to go on as it cannot but amount to abuse of the process of the Court; in such a case not quashing the proceedings would perpetuate abuse of the process of the Court resulting in great hardship and injustice to the accused. In our opinion, exercise of power under Section 482 Cr.PC to quash proceedings in a case like the one on hand, would indeed secure he ends of justice".

The Supreme Court in *Zandu Pharmaceutical Works Ltd. and others v. Mohd. Sharaful Haque and another* (supra), while speaking about compoundable offences was of the opinion that :

"Strictly speaking, the power of compounding of offences given to a Court under Section 320 is materially different from the quashing of criminal proceedings by the High Court in exercise of its inherent jurisdiction.

In compounding of offences, power of a criminal Court is circumscribed by the provisions contained in Section 320 and the Court is guided solely and squarely thereby while, on the other hand, the formation of opinion by the High Court for quashing a criminal offence or criminal proceeding or criminal complaint is guided by the material on record as to whether the ends of justice would justify such exercise of power although the ultimate consequence may be acquittal or dismissal of indictment."

"Where High Court quashes a criminal proceeding having regard to the fact that dispute between the offender and victim has been settled although offences are not compoundable, it does so as in its opinion, continuation of criminal proceedings will be an exercise in futility and justice in the case demands that the dispute between

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

Conclusion

Section 482 Cr.PC has a very wide scope and is an integral part of Cr.PC in order to meet the ends of justice, however, the section due to its wide scope has to be used wisely and according to the guidelines as discussed by High Courts and Supreme Court in various cases from time to time. Interpretation and application of Section 482 has been several changes over the years due to various precedents. This section has been constantly abused by the various law practitioners and it is necessary that it is used as according to the guidelines laid down by the precedents by apex Court and High Courts.

SECTION 12 OF THE INDIAN STAMP ACT, 1899 – CANCELLATION OF ADHESIVE STAMPS – INTERPRETATION AND SCOPE

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1. A promissory note is also a negotiable instrument as per Section 13 of the Negotiable Instruments Act and the phrase "promissory note" is defined under Section 4 of the said Act.

2. While executing a promissory note affixing of adhesive stamps of required value is necessary. Sometimes, more than one adhesive stamp is required to be affixed depending on the value the stamps.