



In the High Court of Punjab and Haryana at Chandigarh

1. CRM-M No. 48043 of 2023 (O&M)
Reserved on: 22.10.2024
Date of Decision: 12.11.2024

Rakesh DasPetitioner

Versus

State of Haryana and anotherRespondents

2. CRM-M No. 2964 of 2021 (O&M)

Asha RaniPetitioner

Versus

State of Punjab and anotherRespondents

3. CRM-M No. 45618 of 2023 (O&M)

Baljit Singh Walia @ Baljit SinghPetitioner

Versus

State of Punjab and anotherRespondents

4. CRM-M No. 46322 of 2023 (O&M)

Kuldip SinghPetitioner

Versus

State of Punjab and othersRespondents

5. CRM-M No. 58552 of 2023 (O&M)

Mayank Rana and othersPetitioners

Versus

State of Haryana and othersRespondents

6. CRM-M No. 2018 of 2024 (O&M)

Himanshu VermaPetitioner

Versus

State of Haryana and anotherRespondents

For Subsequent orders see CRM-M-46322-2023, CRM-M-2018-2024, CRM-M-2030-2024 and 27 more.



7. CRM-M No. 2030 of 2024 (O&M)
Jatin Paul Singh @ Jatin Pal SinghPetitioner
Versus
State of Haryana and anotherRespondents

8. CRM-M No. 24539 of 2023 (O&M)
Vishal Bhandari alias BobbyPetitioners
and others
Versus
State of Haryana and othersRespondents

9. CRM-M No. 31323 of 2021 (O&M)
Rahul Kumar @ RahulPetitioner
Versus
State of Haryana and anotherRespondents

10. CRM-M No. 32447 of 2023 (O&M)
Vinay Kumar and anotherPetitioners
Versus
State of Haryana and anotherRespondents

11. CRM-M No. 35062 of 2021 (O&M)
Dial Singh and othersPetitioners
Versus
State of Punjab and anotherRespondents

12. CRM-M No. 44731 of 2022 (O&M)
Balwinder Singh @ Nikka and othersPetitioners
Versus
State of Punjab and anotherRespondents

13. CRM-M No. 44445 of 2023 (O&M)
Gautam AroraPetitioner
Versus
State of Punjab and othersRespondents



14. CRM-M No. 44474 of 2023 (O&M)
Puneet Kumar @ Punit KumarPetitioner
Versus
State of Haryana and anotherRespondents

15. CRM-M No. 44740 of 2023 (O&M)
Kamal @ LalluwalaPetitioner
Versus
State of Punjab and anotherRespondents

16. CRM-M No. 50448 of 2023 (O&M)
Gurpal Singh @ PaliPetitioner
Versus
State of Punjab and anotherRespondents

17. CRM-M No. 51717 of 2023 (O&M)
Taranjit SinghPetitioner
Versus
State of Punjab and anotherRespondents

18. CRM-M No. 52849 of 2023 (O&M)
Shams ParvaizePetitioner
Versus
State of Punjab and anotherRespondents

19. CRM-M No. 5503 of 2024 (O&M)
Amit Bhandari and anotherPetitioners
Versus
State of Haryana and anotherRespondents

20. CRM-M No. 55217 of 2023 (O&M)
Rajvir Singh @ Rajveer Singh @ MoliPetitioner
and others
Versus
State of Punjab and othersRespondents

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21. **CRM-M No. 55726 of 2023 (O&M)**
Sarbjot Singh @ Sukhwinder SinghPetitioner
Versus
State of Punjab and othersRespondents
22. **CRM-M No. 55881 of 2023 (O&M)**
Shubham and anotherPetitioners
Versus
State of Punjab and othersRespondents
23. **CRM-M No. 56332 of 2023 (O&M)**
Amit @ Kali and othersPetitioners
Versus
State of Haryana and othersRespondents
24. **CRM-M No. 59610 of 2023 (O&M)**
Hashim Favaz C and anotherPetitioner
Versus
State of Haryana and anotherRespondents
25. **CRM-M No. 6003 of 2024 (O&M)**
Upender MaheshwariPetitioner
Versus
State of Haryana and anotherRespondents
26. **CRM-M No. 6185 of 2024 (O&M)**
KushankPetitioner
Versus
State of Haryana and anotherRespondents
27. **CRM-M No. 65205 of 2023 (O&M)**
Mahavir and anotherPetitioners
Versus
State of Haryana and anotherRespondents
28. **CRM-M No. 58966 of 2023 (O&M)**
Yogesh RanaPetitioner
Versus
The State of Haryana and anotherRespondents

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29.

CRM-M No. 58868 of 2023 (O&M)

Mandeep Singh and others

.....Petitioners

Versus

State of Punjab and another

.....Respondents
30.

CRM-M No. 32863 of 2021 (O&M)

Satnam Singh and others

.....Petitioners

Versus

State of Punjab and another

.....Respondents
31.

CRM-M No. 43328 of 2022 (O&M)

Arwinder Singh and others

.....Petitioners

Versus

State of Punjab and others

.....Respondents
32.

CRM-M No. 53780 of 2023 (O&M)

Badal Singh @ Gabbar Singh
and another

.....Petitioners

Versus

State of Punjab and others

.....Respondents
33.

CRM-M No. 52223 of 2023 (O&M)

Des Raj Rattu

.....Petitioner

Versus

State of Punjab and another

.....Respondents
34.

CRM-M No. 55877 of 2023 (O&M)

Veena Soni and others

.....Petitioners

Versus

State of Punjab and another

.....Respondents

**CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MRS. JUSTICE SUDEEPTI SHARMA**

Argued by: Mr. P.S. Ahluwalia, Advocate (*amicus Curiae*) with
Mr. Raunaq Singh Aulakh, Advocate
for the petitioner(s).

Mr. D.S. Matya, Advocate
for the petitioner(s) (in CRM-M-6185-2024).

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Mr. Rajesh Chaudhary, Advocate for
Mr. Gurmail Singh Duhani, Advocate



for the petitioner(s) (in CRM-M-55877-2023).

Mr. Himanshu Choudhary, Advocate for
Mr. Govind Chauhan, Advocate
for the petitioner(s) (in CRM-M-58966-2023).

Mr. P.P.S. Duggal, Advocate
for the petitioner(s) (in CRM-M-53780-2023).

Mr. K.S. Dadwal, Advocate
for the petitioner(s) (in CRM-M-44445-2023).

Mr. Himanshu Choudhary, Advocate for
Mr. Viney Saini, Advocate
for the petitioner(s) (in CRM-M-24539-2023).

Mr. Harparteek Singh Sandhu, Advocate and
Mr. Harsh Vasu Gupta, Advocate
for the petitioner(s) (in CRM-M-48043-2023).

Mr. Puneet Sharma, Advocate for
Mr. Vishal Sharma, Advocate
for the petitioner(s) (in CRM-M-45618-2023).

Mr. Ramnish Puri, Advocate &
Ms. Monika Tanwar, Advocate
for the petitioner(s) (in CRM-M-31323-2021).

Mr. Sukhdeep Singh, Advocate and
Mr. Puneet Kapoor, Advocate
for the petitioner(s) (in CRM-M-52849-2023).

Mr. Inderpal Singh, Advocate for
Ms. Puja Chopra, Advocate
for the petitioner(s) (in CRM-M-46322-2023).

Mr. Vimal Kumar Gupta, Advocate
for the petitioner(s) (in CRM-M-5503-2024).

Mr. R.S. Sidhu, Advocate
for the petitioner(s) (in CRM-M-58868-2023).

Mr. Ankur Mittal, Additional A.G. Haryana and
Mr. Pradeep Prakash Chahar, Sr. DAG, Haryana
Mr. Saurabh Mago, D.A.G
Ms. Kushaldeep Kaur, Advocate
Ms. Saanvi Singla, Advocate for the respondent -State.

Mr. Maninderjit Singh Bedi, Addl. A.G. Punjab and
Mr. Maninder Singh, Sr. DAG, Punjab.



for the complainant (in CRM-M-31323-2021).

Mr. Brahmjot Singh Nahar, Advocate
for respondent No. 2 (in CRM-M-48043-2023).

Mr. Arav Gupta, Advocate
for respondent in (CRM-M-6185-2024).

Mr. Rajesh Chaudhary, Advocate for
Mr. Gurmail Singh Duhan, Advocate
for the respondent/complainant (in CRM-M-56332-2023).

Ms. Gurpreet Kaur, Advocate
for respondent No.2 (in CRM-M-58868-2023).

SURESHWAR THAKUR, J.

1. Since a common question of law is involved in all the petitions (supra), therefore, the said question of law is amenable to be answered through a common verdict being made thereons.
2. The present reference becomes generated from the order pronounced by a learned co-ordinate Bench of this Court on 29.2.2024 upon CRM-M-48043-2023 and another connected case (supra), wherein, the learned co-ordinate Bench of this Court has passed the following order:-

“25. Moreover, this Court has also examined the judgments cited by the learned amicus curiae, details whereof are tabularized hereinafter. In some of these judgments, the Co-ordinate Benches of this Court have allowed partial quashing of FIR, on the basis of partial compromise, whereas, in some of these judgments, the said relief has been declined.

“Judgments wherein partial quashing has been allowed.

S.No.	Case Title	Citation	Date
1.	Harvinder Singh and Ors. V. State of Haryana and Anr.	2022 SCC OnLine P&H 3114	03.11.2022
2.	Sarabjeet Singh V. State of Punjab	2007 (3) RCR (Criminal) 479	01.05.2007

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3.	Gurtej Singh V. State of Haryana	2010 (3) RCR (Criminal) 660	26.03.2010
4.	Joginder Singh and Anr. V. State of Punjab and Anr.	CRM-M-23739-2010	27.04.2011
5.	Baldev Singh and Anr. V. State of Punjab and Anr.	CRM-M-46037-2021	04.04.2022
6.	Malak Singh V. State of Punjab	CRM-M-8999-2020	09.02.2023
7.	Harsimran Singh V. State of Punjab	CRM-M-14035-2022 CRM-M-6962-2020	24.04.2022
8.	Parambir Singh Gill V. Malkiat Kaur	(2010) 1 RCR (Criminal) 256	12.05.2009

Judgments wherein partial quashing has been declined.

S.No	Case Title	Citation	Date
1.	Manohar Singh Manohari V. State of Punjab	CRM-M-36765-2011	27.11.2012
2.	Manjinder Kaur V. State of Punjab	CRM-M-32486-2015	25.07.2017
3.	Navdeep Kumar and Anr. V. State of Haryana and Anr.	CRM-M-42254-2013	12.11.2014

26. *In summa, when there are no explicit guidelines/“ratio decidendi”/“legal precedent” governing the issue of partial quashing of criminal proceedings, on the basis of partial compromise, coupled with the fact that conflicting views are adopted by Co-ordinate Benches of this Court, in the hereinabove cited judgments, this Court deems it fit and appropriate to refer the following issues for adjudication to a Larger Bench of this Court:-*

“(i) Whether, bearing in mind the repercussions attached to partial quashing of FIR, on the trial of other co-accused, can a partial compromise yet ably constitute the ground for quashing of FIR, only qua some of the accused ?

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(ii) Would partial quashing of criminal proceedings, on the strength of partial compromise, elevate the status of victim from that of a stakeholder to that of a driver of the criminal justice system?”

3. Before proceeding further, it is necessary to extract the judgments wherein become underlined the principles with respect to making of orders of composition, based upon the making of compromise(s) amongst the concerned.

4. Be that as it may, some of the Hon’ble Benches of this Court, yet have proceeded to make order(s) for composition of offences, through the invocation of jurisdiction envisaged under Section 482 Cr.P.C., which is now substituted by Section 528, as, embodied in Bharatiya Nagarik Suraksha Sanhita, 2023 (for short ‘BNSS’). The said orders of composition become recorded on the basis of a piecemeal compromise becoming arrived at amongst the concerned or become passed upon a compromise, wherein, only some of the accused are mentioned, whereas, the names of the other accused remain omitted to be so mentioned, besides are based upon a compromise, wherein, the names of all the victims’ or of all the complainants’ become not included. Therefore, the instant reference has been made to this Court for an answer becoming rendered thereons.

5. Moreover, succor to the said passed orders, appears to become leveraged from a judgment rendered by the Apex Court in case titled as ***Lovely Salhotra versus State of NCT of Delhi and another***, reported in ***2017 (3) RCR (Criminal) 85***, wherein become carried the hereinafter principles-

“4. According to us, the F.I.R. in question filed against the appellants – herein by Respondent No.2 is only an after-thought with the sole intention to pressurize the appellants not to prosecute their Criminal Complaint filed by them under Section 138 of the Negotiable Instruments Act, 1881.”

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5. Accordingly, we find that the order so passed by the High Court is not sustainable in the eyes of law and deserves to be set aside.

6. Accordingly, we set aside the said order of the High Court and quash the F.I.R. qua the appellants – herein. The appeal is allowed in the afore-stated terms.”

6. Additionally it appears that succor to the orders (supra), appears to become also bolstered from a judgment rendered by the Apex Court in case titled as **Jayrajsingh Digvijay Singh Rana versus State of Gujarat and another**, reported in **2012 (4) RCR (Criminal) 589**, wherein, in the relevant paragraphs thereof, paragraphs whereof become extracted hereinafter, the hereinafter relevant principles become echoed-

“8. The above question was recently considered by this Court in **Shiji @ Pappu & Ors. v. Radhika & Anr., 2011(6) Recent Apex Judgments (R.A.J.) 210 : 2012(1) RCR (Criminal) 9 : (2011)10 SCC 705**. The question posed in that case was "Whether the criminal proceedings in question could be quashed in the facts and circumstances of the case having regard to the settlement that the parties had arrived at." After advertng to section 482 of the Code and various decisions, this Court concluded as under :

"17. It is manifest that simply because an offence is not compoundable under Section 320 Criminal Procedure Code is by itself no reason for the High Court to refuse exercise of its power under Section 482 Criminal Procedure Code. That power can in our opinion be exercised in cases where there is no chance of recording a conviction against the accused and the entire exercise of a trial is destined to be an exercise in futility. There is a subtle distinction between compounding of offences by the parties before the trial court or in appeal on the one hand and the exercise of power by the High Court to quash the prosecution under Section 482 Criminal Procedure Code on the other. While a court trying an accused or hearing an appeal against conviction, may not be competent to permit compounding of an offence based on a settlement arrived at between the parties in cases where the offences are

not compoundable under Section 320, the High Court may
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quash the prosecution even in cases where the offences with which the accused stand charged are non-compoundable. The inherent powers of the High Court under Section 482 Criminal Procedure Code are not for that purpose controlled by Section 320 Criminal Procedure Code.

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

9. On going through the factual details, earlier decision, various offences under Section 320 of the Code and invocation of section 482 of the Code, we fully concur with the said conclusion. In the case on hand, irrespective of the earlier dispute between Respondent No. 2-the complainant and the appellant being Accused No. 3 as well as Accused Nos. 1 and 2 subsequently and after getting all the materials, relevant details etc., the present appellant (Accused No. 3) sworn an affidavit with bona fide intention securing the right, title and interest in favour of Respondent No. 2 herein-the Complainant. In such bona fide circumstances, the power under

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arrived at between Respondent No. 2-the complainant and the appellant (Accused No. 3), there is no chance of recording a conviction insofar as the present appellant is concerned and the entire exercise of trial is destined to be an exercise in futility. Inasmuch as the matter has not reached the stage of trial, we are of the view that the High Court, by exercising the inherent power under section 482 of the Code even in offences which are not compoundable under Section 320, may quash the prosecution. However, as observed in *Shiji (supra)*, the power under Section 482 has to be exercised sparingly and only in cases where the High Court is, for reasons to be recorded, of the clear view that continuance of the prosecution would be nothing but an abuse of the process of law. In other words, the exercise of power must be for securing the ends of justice and only in cases where refusal to exercise that power may result in the abuse of the process of law.

10. In the light of the principles mentioned above, inasmuch as Respondent No. 2-the Complainant has filed an affidavit highlighting the stand taken by the appellant (Accused No. 3) during the pendency of the appeal before this Court and the terms of settlement as stated in the said affidavit, by applying the same analogy and in order to do complete justice under Article 142 of the Constitution, we accept the terms of settlement insofar as the appellant herein (Accused No. 3) is concerned.”

7. The principles with respect to the making of an order of composition(s) of offence(s) on the basis of the apposite settlement arrived at amongst the concerned, irrespective of the fact, that the said endeavour was made post the making of a verdict of conviction by the learned trial Judge concerned, thus whereagainst a subjudice appeal is maintained by the aggrieved before the appellate Court concerned, become expostulated in a judgment rendered in case titled as ***Gian Singh versus State of Punjab***, reported in **2012(10) SCC 393**. The relevant paragraphs carried in the judgment (*supra*) become extracted hereinafter.



52. It needs no emphasis that exercise of inherent power by the High Court would entirely depend on the facts and circumstances of each case. It is neither permissible nor proper for the court to provide a straitjacket formula regulating the exercise of inherent powers under Section 482. No precise and inflexible guidelines can also be provided.

x x x x

56. We find no incongruity in the above principle of law and the decisions of this Court in *Simrikhia*, *Dharampal*, *Arun Shankar Shukla*, *Ishwar Singh*, *Rumi Dhar (Smt.)*²⁸ and *Ashok Sadarangani*. The principle propounded in *Simrikhia* that the inherent jurisdiction of the High Court cannot be invoked to override express bar provided in law is by now well settled. In *Dharampal*, the Court observed the same thing that the inherent powers under section 482 of the Code cannot be utilised for exercising powers which are expressly barred by the Code. Similar statement of law is made in *Arun Shankar Shukla*. In *Ishwar Singh*, the accused was alleged to have committed an offence punishable under Section 307 Indian Penal Code and with reference to Section 320 of the Code, it was held that the offence punishable under Section 307 Indian Penal Code was not compoundable offence and there was express bar in Section 320 that no offence shall be compounded if it is not compoundable under the Code. In *Rumi Dhar (Smt.)*²⁸ although the accused had paid the entire due amount as per the settlement with the bank in the matter of recovery before the Debts Recovery Tribunal, the accused was being proceeded with for commission of offences under Section 120B, 465, 467, 468 and 471 of the Indian Penal Code along with the bank officers who were being prosecuted under Section 13(2) read with 13(1)(d) of Prevention of Corruption Act. The Court refused to quash the charge against the accused by holding that the Court would not quash a case involving a crime against the society when a prima facie case has been made out against the accused for framing the charge. *Ashok Sadarangani* was again a case where the accused persons were charged of having committed offences under sections 120B, 465, 467, 468 and 471, Indian Penal Code and the allegations were that the accused secured the credit facilities by submitting forged property documents as collaterals and utilised such facilities in a dishonest and fraudulent manner by opening letters of credit in respect of foreign supplies of goods, without actually bringing any goods but inducing the bank to negotiate the letters of credit in favour of foreign suppliers and also by misusing the cash-credit facility. The Court was alive to the reference made in one of the present matters and also the decisions in *B.S. Joshi*, *Nikhil Merchant* and *Manoj Sharma* and it was held that *B.S. Joshi*, and *Nikhil Merchant* dealt with different factual situation as the dispute involved had overtures of a civil dispute but the case under consideration in *Ashok Sadarangani* was more on the criminal intent than on a civil aspect. The decision in *Ashok Sadarangani* more.

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supports the view that the criminal matters involving overtures of a civil dispute stand on a different footing.

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 victim's family and the offender have settled the dispute. Such offences are not private in nature and have serious impact on society. Similarly, any compromise between the victim and offender in relation to the offences under special statutes like Prevention of Corruption Act or the offences committed by public servants while working in that capacity etc; cannot provide for any basis for quashing criminal proceedings involving such offences. But the criminal cases having overwhelmingly and pre-dominantly civil flavour stand on different footing for the purposes of quashing, particularly the offences arising from commercial, financial, mercantile, civil, partnership or such like transactions or the offences arising out of matrimony relating to dowry, etc. or the family disputes where the wrong is basically private or personal in nature and the parties have resolved their entire dispute. In this category of cases, High Court may quash criminal proceedings if in its view, because of the compromise between the offender and victim, the possibility of conviction is remote and bleak and continuation of criminal case would put accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case despite full and complete settlement and compromise with the victim. In other words, the High Court must consider whether it would be unfair or contrary to the interest of justice to continue with the criminal proceeding or continuation of the criminal proceeding would tantamount to abuse of process of law despite settlement and compromise between the victim and wrongdoer and whether to secure the ends of justice, it is appropriate that criminal case is put to an end and if the answer to the above question(s) is in affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding.*

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x x x x

8. Moreover, in a judgment rendered by the Apex Court in case titled as ***Narinder Singh and others versus State of Punjab and another***, reported in **2014(6) SCC 466**, the relevant paragraphs whereof become extracted hereinafter, wherein the relevant to the instant case, thus the principles of law become summarized-

“31. In view of the aforesaid discussion, we sum up and lay down the following principles by which the High Court would be guided in giving adequate treatment to the settlement between the parties and exercising its power under Section 482 of the Code while accepting the settlement and quashing the proceedings or refusing to accept the settlement with direction to continue with the criminal proceedings:

(I) Power conferred under Section 482 of the Code is to be distinguished from the power which lies in the Court to compound the offences under Section 320 of the Code. No doubt, under Section 482 of the Code, the High Court has inherent power to quash the criminal proceedings even in those cases which are not compoundable, where the parties have settled the matter between themselves. However, this power is to be exercised sparingly and with caution.

(II) When the parties have reached the settlement and on that basis petition for quashing the criminal proceedings is filed, the guiding factor in such cases would be to secure:

(i) ends of justice, or

(ii) to prevent abuse of the process of any Court. While exercising the power the High Court is to form an opinion on either of the aforesaid two objectives.

(III) Such a power is not to be exercised in those prosecutions which involve heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. Such offences are not private in nature and have a serious impact on society. Similarly, for offences alleged to have been committed under special statute like the Prevention of Corruption Act or the offences committed by Public Servants while working in that capacity are not to be quashed merely on the basis of compromise between the victim and the offender.

(IV) On the other, those criminal cases having overwhelmingly and pre-dominantly civil character, particularly those arising out of commercial transactions or arising out of matrimonial relationship or family disputes should be quashed when the parties have resolved their entire disputes among themselves.

(V) While exercising its powers, the High Court is to examine as to whether the possibility of conviction is remote and bleak and continuation of criminal cases would put the accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal cases.

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

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

9. Furthermore, the Apex Court in a judgment rendered in case

titled as **Rangopal and another, versus State of Madhya Pradesh** reported in **For Subsequent orders see CRM-M-48322-2023, CRM-M-2018-2024, CRM-M-2030-2024 and 27 more.**



in **2012(4) RCR (Criminal) 322**, the relevant paragraphs whereof become extracted hereinafter, wherein the relevant to the instant case, thus the principles of law become summarized-

“18. It is now a well crystalized axiom that the plenary jurisdiction of this Court to impart complete justice under [Article 142](#) cannot ipso facto be limited or restricted by ordinary statutory provisions. It is also noteworthy that even in the absence of an express provision akin to [Section 482 Cr.P.C.](#) conferring powers on the Supreme Court to abrogate and set aside criminal proceedings, the jurisdiction exercisable under [Article 142](#) of the Constitution embraces this Court with scopious powers to quash criminal proceedings also, so as to secure complete justice. In doing so, due regard must be given to the overarching objective of sentencing in the criminal justice system, which is grounded on the sublime philosophy of maintenance of peace of the collective and that the rationale of placing an individual behind bars is aimed at his reformation.

19. We thus sum-up and hold that as opposed to [Section 320 Cr.P.C.](#) where the Court is squarely guided by the compromise between the parties in respect of offences ‘compoundable’ within the statutory framework, the extra-ordinary power enjoined upon a High Court under [Section 482 Cr.P.C.](#) or vested in this Court under [Article 142](#) of the Constitution, can be invoked beyond the metes and bounds of [Section 320 Cr.P.C.](#) Nonetheless, we reiterate that such powers of wide amplitude ought to be exercised carefully in the context of quashing criminal proceedings, bearing in mind: (i) Nature and effect of the offence on the conscious of the society; (ii) Seriousness of the injury, if any; (iii) Voluntary nature of compromise between the accused and the victim; & (iv) Conduct of the accused persons, prior to and after the occurrence of the purported offence and/or other relevant considerations.”

10. The principles of law stated in verdicts (supra), and, in the verdicts rendered by the Apex Court in cases titled as (i) ***Gian Singh versus State of Punjab***, reported in **2012(10) SCC 393**, (ii) ***Narinder Singh and others versus State of Punjab and another***, reported in **2014(6) SCC 466**, and (iii) ***Ramgopal and another versus State of Madhya Pradesh***, reported in **2012(4) RCR (Criminal) 322**, are inter alia hereunders.

(a) The jurisdiction invested in the High Courts under Section 482 Cr.P.C., which is now substituted by Section 528 in the newly

enacted BNSS, thus encompass a power in the High Courts to, after
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more.



quashing and setting aside the judgment of conviction, and, consequent thereto sentence, passed by the learned Magisterial Court, thus whereagainst a subjudice appeal is maintained by the aggrieved convict, thus to also order for the composition of the apposite offence(s), besides to also make an order for the quashing of the launched criminal proceedings. However, yet the plenitude of power (supra) invested in the High Courts, is irrespective of the apposite offence(s) being omitted to be detailed in the earlier Section 320 Cr.P.C., and, in the replacing thereto Section 359, as engrafted in BNSS, rather to be compoundable even with the leave of the Court. The conspicuous reason for the said statement of law being made therein, is that, the provisions (supra) do not control the plenitude of jurisdiction vested in the High Courts, especially when the said untrammelled jurisdiction is to prevent the abuse of the process of Courts, moreso, when for ensuring the prevalence of amity and goodwill amongst the concerned, thus the parties make a settlement rather for seeking an order of composition.

11. Therefore, in other words, in the verdicts (supra), it becomes expostulated that Section 482, and, now the replacing thereto Section 528, as engrafted in BNSS, is an exception to the restriction or fetter (supra) created in Section 320 Cr.P.C., and, now recreated in the substituted thereto Section 359, thus embodied in the newly enacted BNSS. The further restriction against the making of an order of composition based upon a compromise arrived at the amongst are-

- (i) The apposite offence(s) being not against the State.
- (ii) The offences falling under the Prevention of Corruption Act, offences falling under the UAPA, offences falling under the POCSO Act, besides the offence of rape and other alike

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therewith heinous offences.

12. However, the offences of attempt to murder, and, of causing grievous hurt are also not delineated therein, to be omnibusly amenable for an order of composition becoming passed, even when the aggrieved draws a consensual settlement with the assailant(s), given the restrictions against the making of an order of composition being-

- (a) The region of the body where the assault is made.
- (b) The weapon of offence used.
- (c) The compromise being free from any taint of any extraneous consideration, and/or being completely consensual, thus for ensuring the prevalence of amity and goodwill amongst all concerned.

13. Therefore, the above principles become expounded, only in those cases, where on the basis of a composite compromise, thus arrived at amongst the concerned, a joint endeavour is made through a petition becoming filed under Section 482 Cr.P.C. and, now under the replacing thereto Section 528, as engrafted in BNSS, thus for the High Courts therebys making composite order(s) for therebys compositely quashing even non-compoundable offences, yet the said power is not extendable to the offences mentioned in paragraph 12 of this order, besides is not extendable to the offences mentioned in the verdicts (supra).

14. However, for ensuring that the settlement arrived amongst the concerned, is free from any taint of any extraneous consideration passing from the accused to the complainant/victim, besides the same being free from any taint of any coercion or compulsion becoming exerted, upon, the complainant/victim or upon the informant, thus by the offender(s)

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concerned, thereupon normally, the Courts of law ask for the statements of all concerned, becoming recorded before the learned Illaqa Magistrate, and, besides require that to the effect (supra) echoings become made in the status report, as asked to be furnished by the Illaqa Magistrate concerned, before this Court.

15. An incisive reading of the facts set-forth therein, wherein, all the principles (supra) become settled, but do not suggest that the said principles became erected, even when a partial compromise became arrived at amongst the concerned, and/or when no composite compromise became arrived at amongst all concerned, nor also but obviously the plenitude of jurisdiction preserved in the High Courts under Section 482 Cr.P.C., became expositied therein, to be available to become well recoured, even when the concerned make only a piecemeal compromise, inasmuch as, to the extent that some of the offenders are omitted to be mentioned in the settlement as becomes drawn, and/or even when some of the aggrieved from the offending act of the offender(s) are not included in the said made settlement.

16. In consequence, if the learned Single Benches of this Court after receiving a piecemeal settlement, did proceed to record a piecemeal order of composition of offence(s), besides made orders for the quashing of the verdicts of conviction drawn against the concerned, by the learned trial Judge concerned, whereagainst thus subjudice appeal(s) become instituted before the learned Appellate Court concerned, but basing them on the judgments (supra), are so made, thus without a careful and insightful reading(s) being made, both to the facts set-forth in the verdicts (supra), and, of the guidelines (supra) erected thereons.

17. Consequently, the views taken by the learned Single Benches of
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this Court, based upon the judgments (supra) whereby they proceeded to receive piecemeal settlements drawn amongst the concerned, and, also proceeded to record a piecemeal order of composition, are prima facie made outside the contours of the guidelines spelt in the verdicts (supra). In consequence, the view(s) taken in the said verdicts, thus is *per incuriam*, the expostulations of law (supra), whereby the said adopted view(s), thus to the considered mind of this Court, but require(s) to be hereafter not become adopted by the learned Single Benches of this Court.

18. Even otherwise for the further reasons to be assigned hereinafter, the acceptance of a piecemeal settlement amongst the concerned, and the consequent thereto makings of a piecemeal order of composition thus whereby would obviously beget an open conflict with Section 223 of the repealed Cr.P.C., provisions whereof become now substituted by Section 246 BNS, provisions whereof become extracted hereinafter. The provisions (supra) in both the statutes (supra) are *pari materia*.

“What persons may be charged jointly.

The following persons may be charged and tried together, namely;

- 1. persons accused of the same offence committed in the course of the same transaction;*
- 2. persons accused of an offence and persons accused of abetment of, or attempt to commit, such offence;*
- 3. persons accused of more than one offence of the same kind, within the meaning of section 219 committed by them jointly within the period of twelve months;*
- 4. persons accused of different offences committed in the course of the same transaction;*
- 5. persons accused of an offence which includes theft, extortion, cheating, or criminal misappropriation, and*

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persons accused of receiving or retaining, or assisting in the disposal or concealment of, property possession of which is alleged to have been transferred by any such offence committed by the first-named persons, or of abetment of or attempting to commit any such last-named offence;

6. persons accused of offences under sections 411 and 414 of the Indian Penal Code (45 of 1860) or either of those sections in respect of stolen property the possession of which has been transferred by one offence;

7. persons accused of any offence under [Chapter XII](#) of the Indian Penal Code (45 of 1860) relating to counterfeit coin and persons accused of any other offence under the said Chapter relating to the same coin, or of abetment of or attempting to commit any such offence; and the provisions contained in the former part of this Chapter shall, so far as may be, apply to all such charges;

Provided that where a number of persons are charged with separate offences and such persons do not fall within any of the categories specified in this section, the Magistrate or Court of Sessions may, if such persons by an application in writing, so desire, and if he is satisfied that such persons would not be prejudicially affected thereby, and it is expedient so to do, try all such persons together.”

19. Since a reading of the said provisions, thus plainly speak about the statutory requirement qua joinder of trials against all the common accused concerned, and/or vis-a-vis those accused against whom incriminatory echoings are made in the apposite final report submitted by the investigating officer concerned. Resultantly therebys, the charges drawn against the accused (supra), thus require, that all the accused against whom charges are drawn in terms of the apposite final report, thus do also become

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drawn charges against them.

20. As such, if all the accused named as such, in the FIR, after the institution of the final report under the relevant provisions of law, require that charges common to all the accused become drawn against them, whereafters on each pleading not guilty to the said drawn charges, they are required to be put to a joint trial, thereby necessarily the trial vis-a-vis the charges drawn against, the accused who are alleged to jointly commit the relevant registered offence, but is required to be jointly embarked upon by the learned trial Judge concerned. Conspicuously thereby, unless an order of discharge is passed, on the relevant motion by the learned trial Judge concerned, thereby the entering of a joint trial, upon all the accused, who are named jointly in the common FIR registered against them, but is a statutory necessity, and, is required not to be derogated from.

21. However, in case but at the appropriate stage, thus a piecemeal settlement becomes recorded amongst the concerned, whereby, some of the accused against whom charges are drawn become omitted therein, thereby reiteratedly there would be a conflict with the mandate (supra). Moreover, thereby the hereafter ill-situations would spur-

- (a) The accused whose names do not occur in the settlement, becoming ill led to face trial of the charged offence(s).
- (b) Even the aggrieved victim/complainant/informant, if he/she is a part of the piecemeal compromise, thus may become disempowered, to ensure the success of the charge, as he/she would become confronted with the order making a piecemeal composition of the offence.

22. The further effect of the above would be twofold, inasmuch as,
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it would cause incision both to the prosecution, besides may even present an ill-situation to the trial Judge, thus in the following events-

- (a) In case the aggrieved victim/complainant/informant on his/her stepping into the witness box, refuses to acknowledge the signing of the settlement, thereby but obviously the order of composition may become vitiated.
- (b) Upon the accused, in case he/she acknowledges his/her appending his/her signatures or thumb impressions on the settlement, thereupon, the obvious availability to the defence to confront the victim/complainant/informant, thus with the piecemeal order of composition, but naturally would comprise a permissible exculpatory tool, thus to on an anvil thereof, make suggestions that thereby the entire prosecution case, thus warrants that the same staggers. The said suggestion may be to the extent that the compromise was drawn with an ill intention or with malafides, besides became ridden with a vice of extraneous consideration, thereby the non inclusion therein of the accused, who are led to face the trial, was only as a measure of wreaking vendetta upon the accused, who was led to face trial, whereby but naturally the proceedings in trial launched against the accused, who are left to be joined in the settlement, may ultimately become concluded to become embarked with the vice qua thereby there being not only an abuse of the process of law, but also the said proceedings being potentialized only to harass and humiliate the said accused.

23. Now there may be also a situation where a charge of vicarious
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liability is cumulatively drawn against all the offenders, however, in case the principal offender makes a successful settlement with the aggrieved victim/complainant, thus excluding either-

- (a) the accessory before the fact or the conspirator;
- (b) the accessory at the fact or the abettors;
- (c) the accessory after the fact or the harborers or those who conceal or destroy the evidence, wherebys all (supra) would be ill-led to face the trial.

24. Resultantly therebys even the aggrieved victim/complainant may face an exacting cross-examination by the learned defence counsel to the effect-

- (a) That the compromise was ridden with the vice of extraneous consideration;
- (b) The same while leaving out the accused with the incriminatory role(s) (supra), was with a malafide intent to unnecessarily continue the criminal proceedings against him;
- (c) On the falling apart of the charge against the principal accused, through the making of a piecemeal order of composition, therebys the Public Prosecutor would be faced with an ill-situation, wherebys he may become disabled to prove the joint constructive criminal liability, to be otherwise foisted also upon the accused, thus with the incriminatory role(s) (supra), especially when the main accused or the principal offender against whom charges are also required to be proven but conjointly along with the other co-accused, thus becomes left out from the array of the accused, upon, his

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receiving a piecemeal order of composition.

25. Another illustration of an ill-situation emerging in the event of a piecemeal order of composition becoming recorded, based upon a piecemeal settlement rather excluding the principal offender, is that, therebys when there is an insegragable connection inter se the role of the principal offender along with the accused, who become assigned the incriminatory roles of either (a) being the accessories before the fact, (b) accessories at the fact or (c) accessories post the occurrence of the crime event. Resultantly thereupons also may be the principal in the first degree or the principal offender, thus may become purveyed an able exculpatory tool, to make suggestions to the victim/informant/complainant or to the eye witnesses concerned, besides to the witnesses to the recovery memos, that since the piecemeal order of composition becomes made, wherebys the criminal proceedings drawn against the supra, become quashed and set aside. In sequel therebys the entire edifice of the prosecution case, thus erected against the principal offender, thus requiring to become declared to become shattered, and, also requiring qua the same becoming declared to become collapsed. Ultimately therebys the casualty would be the criminal administration system, besides the casualty thereof, thus would be the victim/complainant.

26. In sequel, when therebys the learned trial Judge concerned, may be led to pronounce a verdict of acquittal, viz-a-viz those, who remain omitted to be mentioned in the piecemeal order of composition, as made post a piecemeal settlement, becoming recorded amongst the concerned. In consequence, besides naturally havoc would be caused not only to the criminal administration system, but also to the trite underpinning thereof, that no damage accrues to the moral conscience of the society nor the moral

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conscience of the society becoming shaken. It is but to avoid the above ill-casualties or the ill-situations (supra), that the Hon'ble Supreme Court, has in the verdicts (supra), thus has made supra guidelines, whereby but obviously there is a requirement of exercising of self-restraint by the High Courts, in receiving piecemeal settlements, and, also subsequently in making piecemeal orders of composition. Reiteratedly, the ill effects of receivings of such piecemeal settlements and also the makings of consequent thereto piecemeal orders of composition, thus naturally would be the above. In sequel, issue No. 1 is answered accordingly.

27. In some situations, as stated (supra), the victim may attempt to be the driver of the criminal justice system, but to ensure that the victim/complainant, does not become the driver of the criminal justice system, through makings of piecemeal settlements, thereupons the Courts are required to be not accepting any piecemeal settlements, rather are required to be rejecting piecemeal settlements, nor they are required to be making piecemeal orders for the composition of offence. Issue No. 2 is answered accordingly.

Final order

28. In view of the above observations, the reference stands answered accordingly.

(SURESHWAR THAKUR)
JUDGE

(SUDEEPTI SHARMA)
JUDGE

November 12th, 2024
Gurpreet

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

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