REPORTABLE

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.336 OF 2019
(Arising from SLP(Criminal) No.9859/2013)

The State of Madhya Pradesh ..Appellant

Versus

Dhruv Gurjar and another ..Respondents

WITH

CRIMINAL APPEAL NO.337 OF 2019
(Arising from SLP(Criminal) No.9860/2013)

State of Madhya Pradesh ..Appellant

Versus

Tinku Sharma and others ..Respondents

J U D G M E N T

M.R. SHAH, J.

Leave granted in both the special leave petitions.

2. As common question of law and facts arise in both these appeals, they are being disposed of by this common judgment and order.

3. Feeling aggrieved and dissatisfied with the impugned judgment and order dated 8.4.2013 passed by the High Court of Madhya Pradesh, Bench at Gwalior in Miscellaneous Criminal Petition No. 2572/2013, by which the High Court has allowed the said application preferred by the respondents herein/original accused (hereinafter referred to as the 'Accused'), and in exercise of its powers under Section 482 of the Code of Criminal Procedure, has quashed the proceedings against the accused for the offences punishable under Sections 307, 294 and 34 of the IPC, the State of Madhya Pradesh has preferred the present appeal.

4. The facts leading to this appeal are, that an FIR was lodged against the accused at police station, Kotwali, District Datia for the offences punishable under Sections 307, 294 and 34 of the IPC, which was registered as Crime No. 552/2012. It was alleged that at about 8:00 p.m. in the night on 17.12.2012 when after distributing the milk, Cheeni @ Devasik Yadav came in front of his house situated at Rajghat Viram, at the same time, Dhruv Gurjar (accused) being armed with 12 bore gun,

Sonu Khamaria, Rohit Gurjar, Avdhesh Tiwari and 3 to 4 other persons came there and asked him to take out his nephew, and they will kill him as on account of enmity of scuffle took place between his nephew Anand and the accused persons. When complainant told them that my nephew is not here at the same time all of them started to abuse the complainant with filthy language and when he asked them not to do so, at the same time, Sonu Khamaria, Rohit Gurjar, Avdhesh Tiwari and 3-4 other persons spoken that "kill this bastard", at the same time, Dhruv Gurjar made a fire with intention to kill him, whose pellets struck on three places of his body, i.e., on his forehead, left shoulder and left ear, due to which, he sustained injuries and blood started oozing from it. According to the complainant, Rampratap Yadav and Indrapal Singh were present on the spot, who had witnessed the incident. On hearing the noise of fire, when other people of vicinity reached there, then, all of these persons fled away from the spot of the incident.

4.1 On the basis of a report, a Dehati Nalishi bearing No. 0/12 was registered under Sections 307, 294 and 34 of the IPC. As the complainant sustained injuries, his MLC was performed. On the basis of the contents of the said report, a Crime bearing

No. 552/2012 was registered under Sections 307, 294 and 34 of the IPC and the criminal investigation was triggered. Thereafter, the investigation team reached the spot and prepared the spot map and articles were seized.

4.2 That on 18.12.2012, the statements of the witnesses were recorded under Section 161 of the Cr.P.C. That on 21.03.2013, the police arrested the accused.

4.3 The accused filed Miscellaneous Criminal Petition No. 2572 of 2013 under Section 482 of Cr.P.C. before the High Court of Madhya Pradesh, Bench at Gwalior for quashing the criminal proceedings against the accused arising out of the FIR, on the basis of a compromise arrived at between the accused and the complainant.

5. That, by the impugned judgment and order, the High Court, in exercise of its powers under Section 482 of Cr.P.C., has quashed the criminal proceedings against the accused on the ground that the accused and the complainant have settled the disputes amicably. While quashing the criminal proceedings against the accused, the High Court has considered and relied upon the decision of this Court in the case of *Shiji @ Pappu and others vs. Radhika and another, (2011) 10 SCC 705.*

6. Feeling aggrieved and dissatisfied by the impugned judgment and order, quashing the criminal proceedings against the accused for the offences punishable under Sections 307, 294 and 34 of the IPC, the State of Madhya Pradesh has preferred the present appeal.

Criminal Appeal @ SLP(Criminal) No.9860/2013

7. Feeling aggrieved and dissatisfied with the impugned judgment and order dated 15.3.2013 passed by the High Court of Madhya Pradesh, Bench at Gwalior in Miscellaneous Criminal Petition No. 1936/2013, by which the High Court has allowed the said application preferred by the respondents herein/original accused (hereinafter referred to as the 'Accused'), and in exercise of its powers under Section 482 of the Code of Criminal Procedure, has quashed the proceedings against the accused for the offences punishable under Section 394 of the IPC, 11/13 of M.P.D.V.P.K. Act and 25/27 of the Arms Act, the State of Madhya Pradesh has preferred the present appeal.

8. The facts leading to this appeal are, that on 21.12.2012 one truck driver by name Janki Kushwah informed the complainant – Malkhan Singh Yadav, who is also a truck driver that his truck was having some problem and he is near

Sitapur village. The complainant reached there and found that his brother Mangal had also reached there with his truck. It is alleged that when they were busy in repairing the truck, four persons at around 5:00 a.m. came from the Sitapur village and they had beaten all of them with legs and fists and snatched cash of Rs.7,300/- and two Nokia mobiles having Sim Nos. 9411955930 & 7599256400 from the complainant – Malkhan Singh Yadav, Rs.19,000/- from Mangal and Rs.16,500/- from Janki Kushwah and a Spice mobile having Sim No. 8756194727. That the complainant is driving on that route since last 7 to 8 years and sometimes also stayed in Sitapur village. According to the complainant, all the four persons were known to him and one of them, namely, accused Tinku Sharma was having 'Addhi' in his hand, the second one was Ravi Sharma, who was having gun in his hand, and the other two were Babloo Sharma and Bhurerai. All the accused persons after robbing the complainant, Mangal and Janki Kushwah, went towards Sitapur village.

8.1 That at 6:30 a.m., the complainant went to Goraghat Police Station, District Datia and lodged the first information report, which was registered as Crime No. 159 of 2012 against the accused under Section 394 of the IPC, 11/13 of M.P.D.V.P.K. Act

and 25/27 of the Arms Act. Thereafter, the investigation was started and the police reached the spot of the incident and prepared spot map and also recorded the statement of witnesses. Thereafter, they sent the complainant and two other persons to the District Hospital, Datia for medical examination, where the Medical Officer found simple injuries on various body parts of them.

8.2 The police on 27.01.2013 reached to the house of the accused persons and in the village but could not found them and ultimately prepared the ascendance panchnama. On 14.03.2013, the learned Chief Judicial Magistrate, Datia issued proclamation under Section 82 of the Cr.P.C. against the accused persons to appear before him on 16.04.2013. Meanwhile, on 12.03.2013, the accused persons approached the High Court of Madhya Pradesh, Bench at Gwalior for quashing of FIR No. 159/2012, registered against them at Police Station Goraghat, District Datia for the offences punishable under Section 394 of the IPC, 11/13 of M.P.D.V.P.K. Act and 25/27 of the Arms Act.

9. That, by the impugned judgment and order, the High Court, in exercise of its powers under Section 482 of Cr.P.C., has quashed the criminal proceedings against the accused on the

ground that the accused and the complainant have settled the disputes amicably. While quashing the criminal proceedings against the accused, the High Court has considered and relied upon the decision of this Court in the case of *Shiji (supra).*

10. Feeling aggrieved and dissatisfied by the impugned judgment and order, quashing the criminal proceedings against the accused for the offences punishable under Section 394 of the IPC, 11/13 of M.P.D.V.P.K. Act and 25/27 of the Arms Act, the State of Madhya Pradesh has preferred the present appeal.

11. So far as the criminal appeal arising out of SLP (Crl.) No. 9859/2013 is concerned, it is required to be noted that the accused were facing the criminal proceedings for the offences punishable under Sections 307, 294 and 34 of the IPC. It was alleged against the accused that at the time of commission of the offence, the accused Dhruv Gurjar fired from his fire arm on the original complainant with an intention to kill him, and the original complainant sustained serious injuries and the pellets struck on three places of his body, i.e., on the forehead, left shoulder and left ear. That incident took place on 17.12.2012 and the investigating officer commenced the investigation, recorded the statement of the witnesses under Section 161 of the

Cr.P.C. on 18.12.2012. The investigating officer also seized the articles. The Investigating officer also collected the medical evidence. It appears that one of the co-accused, namely, Rohit Gurjar was arrested on 21.03.2013. Nothing in on record to show, whether in fact the respondent no.1 herein, the main accused – original accused no.1 was arrested or not. It appears that during the investigation, immediately, the original accused no.1 – Dhruv Gurjar approached the High Court on 5.4.2013 by filing an application under Section 482 of the Cr.P.C. for quashing the FIR. Immediately on the fourth day of filing of the application, by the impugned judgment and order dated 8.4.2013, the High Court has quashed the FIR solely on the ground that there is a settlement arrived at between the complainant and the accused. While quashing the FIR, the High Court has relied upon the decision of this Court in the case of *Shjji (supra)*, specially the observations recorded by this Court "that where there is no chance of recording conviction against the accused persons and the entire exercise of a trial destined to be exercise of futility, the criminal case registered against the accused persons, though it may not be compoundable, can be

quashed by the High Court in exercise of powers under Section 482 of the Cr.P.C".

12. Now so far as the criminal appeal @ SLP(Crl.) No. 9860/2013 is concerned, original accused were facing the criminal proceedings for the offences under Section 394 of the IPC, 11/13 of M.P.D.V.P.K. Act and Sections 25/27 of the Arms Act. The incident was alleged to happen on 21.12.2012. Immediately, the investigating officer started the investigation. All the accused were absconding. That when the investigation was in progress, the original accused approached the High Court by way of an application under Section 482 of the Cr.P.C. on 12.03.2013 and prayed for quashing of the FIR. That on 14.03.2013, the learned Chief Judicial Magistrate issued proclamation under Section 82 of the Cr.P.C. against the accused persons to appear before him on 16.04.2013. That, by the impugned judgment and order dated 15.03.2013, the High Court has quashed the FIR solely on the ground that the original complainant and the accused has entered into a compromise. Hence, the present appeals.

13. Shri Varun K. Chopra, learned advocate appearing on behalf of the State of Madhya Pradesh has vehemently submitted that in

both these cases, the High Court has committed a grave error in quashing the respective FIRs which were for the offences under Sections 307, 294 and 34 of the IPC and 394 of the IPC, 11/13 of M.P.D.V.P.K. Act and Sections 25/27 of the Arms Act respectively.

13.1 It is vehemently submitted by the learned counsel appearing on behalf of the appellant-State that in the present cases the High Court has quashed the respective FIRs mechanically and solely on the basis of the settlement/compromise between the complainant and the accused, without even considering the gravity and seriousness of the offences alleged against the accused persons.

13.2 It is further submitted by the learned counsel appearing on behalf of the appellant-State that while exercising the powers under Section 482 of the Cr.P.C. and quashing the respective FIRs, the High Court has not at all considered the fact that the offences alleged were against the society at large and not restricted to the personal disputes between the two individuals.

13.3. It is further submitted by the learned counsel appearing on behalf of the appellant-State that the High Court has misread the decision of this Court in the case of *Shiji (supra)*,

while quashing the respective FIRs. It is vehemently submitted by the learned counsel that the High Court ought to have appreciated that in all the cases where the complainant has compromised/entered into a settlement with the accused, that need not necessarily mean resulting into no chance of recording conviction and/or the entire exercise of a trial destined to be exercise of futility. It is vehemently submitted by the learned counsel appearing on behalf of the appellant-State that in a given case despite the complainant may not support in future and in the trial in view of the settlement and compromise with the accused, still the prosecution may prove the case against the accused persons by examining the other witnesses, if any, and/or on the basis of the medical evidence and/or other evidence/material. It is submitted that in the present cases the investigation was in progress and even the statement of the witnesses was recorded and the medical evidence was also collected. It is submitted that therefore in the facts and circumstances of the case, the High Court has clearly erred in considering and relying upon the decision of this Court in the case of *Shiji (supra)*.

13.4 It is further submitted by the learned counsel appearing on behalf of the appellant-State that as such in the appeal arising out of SLP(Crl.) No. 9860/2013, in fact, the accused were absconding from the day of the commission of the offence and, in fact, the learned Chief Judicial Magistrate, Datia issued a proclamation under Section 82 of the Cr.P.C. against the accused persons to appear before him. It is submitted that in between the day of the alleged commission of the offence and filing of the application before the High Court under Section 482 Cr.P.C., and while they were absconding, the accused managed to get the affidavits of the complainant and other witnesses, which were dated 9.2.2013. It is submitted that all these aforesaid circumstances and the conduct on the part of the accused were required to be considered by the High Court while quashing the FIR in exercise of its inherent powers under Section 482 of the Cr.P.C., and more particularly when the offences alleged were against the society at large, namely, robbery and under the Arms Act, and in fact non-compoundable. In support of his submissions, learned counsel for the appellant-State has placed reliance on the decisions of this Court in the cases of *Gian Singh vs. State of Punjab (2012) 10 SCC 303; State of Madhya*

Pradesh vs. Deepak (2014) 10 SCC 285; State of Madhya Pradesh vs. Manish (2015) 8 SCC 307; J.Ramesh Kamath vs. Mohana Kurup (2016) 12 SCC 179; State of Madhya Pradesh vs. Rajveer Singh (2016) 12 SCC 471; Parbatbhai AAhir vs. State of Gujarat (2017) 9 SCC 641; and *2019 SCC Online SC 7, State of Madhya Pradesh vs. Kalyan Singh, decided on 4.1.2019 in Criminal Appeal No. 14/2019.*

13.5 Making the above submissions and relying upon the aforesaid decisions of this Court, learned counsel appearing on behalf of the appellant-State has prayed to allow the present appeals and quash and set aside the impugned judgments and orders passed by the High Court quashing and setting aside the respective FIRs, in exercise of its inherent powers under Section 482 of the Cr.P.C.

14. Per contra, learned counsel appearing on behalf of the accused has supported the impugned judgments and orders passed by the High Court.

14.1 It is vehemently submitted by the learned advocate appearing on behalf of the accused that in the facts and circumstances of the case and when the complainant and the

accused entered into a compromise and settled the disputes amicably among themselves, and therefore when the High Court found that there is no chance of recording conviction against the accused persons and the entire exercise of a trial would be an exercise of futility, the High Court has rightly exercised the powers under Section 482 Cr.P.C. and has rightly quashed the respective FIRs. In support of his submissions, learned counsel for the accused has placed reliance on the decisions of this Court in the cases of *Jitendra Raghuvanshi vs. Babita Raghuvanshi (2013) 4 SCC 58; Anita Maria Dias vs. State of Maharashtra (2018) 3 SCC 290; and Social Action Forum for Manav Adhikar vs. Union of India (2018) 10 SCC 443*.

14.2 Making the above submissions and relying upon the aforesaid decisions of this Court, it is prayed to dismiss the present appeals.

15. Heard learned counsel for the respective parties at length.

16. At the outset, it is required to be noted that in the present appeals, the High Court in exercise of its powers under Section 482 of the Cr.P.C. has quashed the FIRs for the offences under Sections 307, 294 and 34 of the IPC and 394 of the IPC,

11/13 of M.P.D.V.P.K. Act and Sections 25/27 of the Arms Act respectively, solely on the basis of a compromise between the complainant and the accused. That in view of the compromise and the stand taken by the complainant, considering the decision of this Court in the case of *Shiji (supra)*, the High Court has observed that there is no chance of recording conviction against the accused persons and the entire exercise of a trial would be exercise in futility, the High Court has quashed the respective FIRs.

16.1 However, the High Court has not at all considered the fact that the offences alleged were non-compoundable offences as per Section 320 of the Cr.P.C. From the impugned judgments and orders, it appears that the High Court has not at all considered the relevant facts and circumstances of the case, more particularly the seriousness of the offences and its social impact. From the impugned judgments and orders passed by the High Court, it appears that the High Court has mechanically quashed the respective FIRs, in exercise of its powers under Section 482 Cr.P.C. The High Court has not at all considered the distinction between a personal or private wrong and a social wrong and the social impact. As observed by this Court in the

case of *State of Maharashtra vs. Vikram Anantrai Doshi, (2014) 15 SCC 29,* the Court's principal duty, while exercising the powers under Section 482 Cr.P.C. to quash the criminal proceedings, should be to scan the entire facts to find out the thrust of the allegations and the crux of the settlement. As observed, it is the experience of the Judge that comes to his aid and the said experience should be used with care, caution, circumspection and courageous prudence. In the case at hand, the High Court has not at all taken pains to scrutinise the entire conspectus of facts in proper perspective and has quashed the criminal proceedings mechanically. Even, the quashing of the respective FIRs by the High Court in the present cases for the offences under Sections 307, 294 and 34 of the IPC and 394 of the IPC, 11/13 of M.P.D.V.P.K. Act and Sections 25/27 of the Arms Act respectively, and that too in exercise of powers under Section 482 of the Cr.P.C. is just contrary to the law laid down by this Court in a catena of decisions.

16.2 In the case of *Gian Singh (supra),* in paragraph 61, this Court has observed and held as under:

> "61. 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 FIR may be exercised where the offender and the 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 a serious impact on society. Similarly, any compromise between the victim and the offender in relation to the offences under special statutes like the 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 predominatingly civil flavour stand on a 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, the High Court may quash the criminal proceedings if in its view, because of the compromise between the offender and the victim, the possibility of conviction is remote and bleak and continuation of

the criminal case would put the 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 the wrongdoer and whether to secure the ends of justice, it is appropriate that the criminal case is put to an end and if the answer to the above question(s) is in the affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding."

16.3 In the case of *Narinder Singh vs. State of Punjab (2014) 6 SCC 466,* after considering the decision in the case of *Gian Singh (supra),* in paragraph 29, this Court summed up as under:

"29. 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:

29.1. 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 483Code, 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.

29.2. 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.

29.3. 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 the 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.

29.4. On the other hand, those criminal cases having overwhelmingly and predominantly 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.

29.5. 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.

29.6. Offences under Section 307 IPC would fall in the category of heinous and serious offences and therefore are 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 latter 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.

29.7. 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 to 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."

16.4 In the case of *Parbatbhai Aahir (supra)*, again this Court has had an occasion to consider whether the High Court can quash the FIR/complaint/criminal proceedings, in exercise of the inherent jurisdiction under Section 482 Cr.P.C. Considering a catena of decisions of this Court on the point, this Court summarised the following propositions:

> "(1) Section 482 CrPC preserves the inherent powers of the High Court to prevent an abuse of the process of any court or to secure the ends of justice. The provision does not confer new powers. It only recognises and preserves powers which inhere in the High Court.
>
> (2) The invocation of the jurisdiction of the High Court to quash a first information report or a criminal proceeding on the ground that a settlement has been arrived at between the offender and the victim is not the

same as the invocation of jurisdiction for the purpose of compounding an offence. While compounding an offence, the power of the court is governed by the provisions of Section 320 CrPC. The power to quash under Section 482 is attracted even if the offence is non-compoundable.

(3) In forming an opinion whether a criminal proceeding or complaint should be quashed in exercise of its jurisdiction under Section 482, the High Court must evaluate whether the ends of justice would justify the exercise of the inherent power.

(4) While the inherent power of the High Court has a wide ambit and plenitude it has to be exercised (i) to secure the ends of justice, or (ii) to prevent an abuse of the process of any court.

(5) the decision as to whether a complaint or first information report should be quashed on the ground that the offender and victim have settled the dispute, revolves ultimately on the facts and circumstances of each case and no exhaustive elaboration of principles can be formulate.

(6) In the exercise of the power under Section 482 and while dealing with a plea that the dispute has been settled, the High Court must have due regard to the nature and gravity of the offence. Heinous and serious offences involving mental depravity or offences such as murder, rape and dacoity cannot appropriately be quashed though the victim or the family of the victim have settled the dispute. Such offences are, truly speaking, not private in nature but have a serious impact upon society. The decision to continue with the trial in such cases is founded on the overriding element of public interest in punishing persons for serious offences.

(7) As distinguished from serious offences, there may be criminal cases which have an overwhelming or predominant element of a civil dispute. They stand on a distinct footing insofar as the exercise of the inherent power to quash is concerned.

(8) Criminal cases involving offences which arise from commercial, financial, mercantile, partnership or similar transactions with an essentially civil flavour may

in appropriate situations fall for quashing where parties have settled the dispute.

(9) In such a case, the High Court may quash the criminal proceeding if in view of the compromise between the disputants, the possibility of a conviction is remote and the continuation of a criminal proceeding would cause oppression and prejudice; and

(10) There is yet an exception to the principle set out in Propositions (8) and (9) above. Economic offences involving the financial and economic well-being of the State have implications which lie beyond the domain of a mere dispute between private disputants. The High Court would be justified in declining to quash where the offender is involved in an activity akin to a financial or economic fraud or misdemeanour. The consequences of the act complained of upon the financial or economic system will weigh in the balance."

16.5 In the case of *Manish (supra),* this Court has specifically observed and held that, when it comes to the question of compounding an offence under Sections 307, 294 and 34 IPC (as in the appeal @ SLP(Crl.) No. 9859/2013) along with Sections 25 and 27 of the Arms Act (as in the appeal @ SLP(Crl.) No. 9860/2013), by no stretch of imagination, can it be held to be an offence as between the private parties simpliciter. It is observed that such offences will have a serious impact on the society at large. It is further observed that where the accused are facing trial under Sections 307, 294 read with Section 34 IPC as well as Sections 25 and 27 of the Arms Act, as the offences are definitely

against the society, accused will have to necessarily face trial and come out unscathed by demonstrating their innocence.

16.6 In the case of *Deepak (supra),* this Court has specifically observed that as offence under Section 307 IPC is non-compoundable and as the offence under Section 307 is not a private dispute between the parties inter se, but is a crime against the society, quashing of the proceedings on the basis of a compromise is not permissible. Similar is the view taken by this Court in a recent decision of this Court in the case of *Kalyan Singh (supra).*

17. Now so far as the decisions of this Court upon which the learned counsel appearing on behalf of the accused has placed reliance, referred to hereinabove, are concerned, none of the decisions shall be of any assistance to the accused in the present case. In all the aforesaid cases, the dispute was a matrimonial dispute, and/or the dispute predominantly of a civil dispute, and/or of the dispute where the wrong is basically private or personal.

18. Now so far as the reliance placed upon the decision of this Court in the case of *Shiji (supra)*, while quashing the respective FIRs by observing that as the complainant has

compromised with the accused, there is no possibility of recording a conviction, and/or the further trial would be an exercise in futility is concerned, we are of the opinion that the High Court has clearly erred in quashing the FIRs on the aforesaid ground. It appears that the High Court has misread or misapplied the said decision to the facts of the cases on hand. The High Court ought to have appreciated that it is not in every case where the complainant has entered into a compromise with the accused, there may not be any conviction. Such observations are presumptive and many a time too early to opine. In a given case, it may happen that the prosecution still can prove the guilt by leading cogent evidence and examining the other witnesses and the relevant evidence/material, more particularly when the dispute is not a commercial transaction and/or of a civil nature and/or is not a private wrong. In the case of *Shiji (supra)*, this Court found that the case had its origin in the civil dispute between the parties, which dispute was resolved by them and therefore this Court observed that, 'that being so, continuance of the prosecution where the complainant is not ready to support the allegations…will be a futile exercise that will serve no purpose'. In the aforesaid case, it was also further observed 'that

even the alleged two eyewitnesses, however, closely related to the complainant, were not supporting the prosecution version', and to that this Court observed and held 'that the continuance of the proceedings is nothing but an empty formality and Section 482 Cr.P.C. can, in such circumstances, be justifiably invoked by the High Court to prevent abuse of the process of law and thereby preventing a wasteful exercise by the courts below. Even in the said decision, in paragraph 18, it is observed as under:

> "18. Having said so, we must hasten to add that the plenitude of the power under Section 482 CrPC 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."

18.1 Therefore, the said decision may be applicable in a case which has its origin in the civil dispute between the parties; the parties have resolved the dispute; that the offence is not against the society at large and/or the same may not have social impact; the dispute is a family/matrimonial dispute etc. The aforesaid decision may not be applicable in a case where the offences alleged are very serious and grave offences, having a social impact like offences under Section 307 IPC and 25/27 of the Arms Act etc. Therefore, without proper application of mind to the relevant facts and circumstances, in our view, the High Court has materially erred in mechanically quashing the respective FIRs, by observing that in view of the compromise, there are no chances of recording conviction and/or the further trial would be an exercise in futility. The High Court has mechanically considered the aforesaid decision of this Court in the case of S*hiji (supra)*, without considering the relevant facts and circumstances of the case.

18.2 Even otherwise, in the facts and circumstances of the case of the appeal arising from SLP(Crl.) No. 9860/2013, the High Court has erred in quashing the FIR. It is required to be noted that the FIR was lodged on 21.12.2012 for the offence

alleged to happen on 21.12.2012. All the accused were absconding. After a period of approximately three months, they approached the High Court by way of filing a petition under Section 482 of the Cr.P.C., i.e., on 12.03.2013. The learned Chief Judicial Magistrate issued a proclamation under Section 82 of the Cr.P.C. against the accused persons on 14.03.2013. In the meantime, the accused managed to get the affidavits of the complainant and the two witnesses dated 09.02.2013, and the High Court quashed the FIR on 15.03.2013, i.e., within a period of three days from the date of filing the petition. The High Court has also not considered the antecedents of the accused. It has come on record that the accused persons were facing number of trials for the serious offences. The aforesaid would be relevant factors, while exercising the inherent powers under Section 482 Cr.P.C and while considering the application for quashing the FIR/complaint/criminal proceedings. In fact, in such a situation, the High Court ought to have been more vigilant and ought to have considered relevant facts and circumstances under which the accused got the settlement entered into. The High Court has not at all considered the aforesaid relevant circumstances, while exercising the power under Section 482 Cr.P.C.

19. In view of the above and for the reasons stated, both these appeals succeed, and are hereby allowed. The impugned judgments and orders passed by the High Court are hereby set aside, and the respective FIRs/investigation/criminal proceedings be proceeded against the respective accused, and they shall be dealt with, in accordance with law.

.....J.
[L. NAGESWARA RAO]

NEW DELHI;
FEBRUARY 22, 2019.

.....J.
[M.R. SHAH]