

(2016) 07 BOM CK 0032

In the Bombay High Court

Case No : Criminal Writ Petition No. 4995 of 2015

Aannapaa Avdhut Haladvdru

APPELLANT

Vs

The State of Maharashtra

RESPONDENT

Date of Decision : 18-07-2016

Acts Referred:

Citation : (2016) 3 AIRBomRCri 13 : (2016) ALLMRCri 3529 : (2016) 3 BomCR(Cri) 668 : (2016) 5 MhLJCrI 708

Hon'ble Judges : Naresh H. Patil and Prakash D. Naik, JJ.

Bench : Division Bench

Advocate : Mr. Wasim Samilwale i/b. Mr. U.R. Mankapure, Advocates, for the Appellant; Mr. Manoj M. Badgujar, Advocate, for the Respondent

Final Decision : Dismissed

Judgement

Prakash D. Naik, J.—Rule. Rule is made returnable forthwith.

2. Learned APP waives service for Respondent - State.

3. The petitioners in both these petitions have invoked writ jurisdiction of this Court under Article 226 of the Constitution of India as well as the inherent powers of this Court under Section 482 of the Code of Criminal Procedure. The issues involved in both these petitions are interconnected with each other and hence, the petitions are disposed of by common judgment and order. In both these petitions, the petitioners and the respective complainants have submitted that the parties involved therein have resolved their disputes and have approached this Court for quashing by consent, the respective criminal proceedings.

4. Criminal writ petition no.4995 of 2015 is preferred by the petitioners who are original accused in C.R. No.45 of 2015, registered with Umadi Police Station, District Sangli. The said FIR was registered at the instance of second respondent for the offences punishable under Sections 143, 147, 148, 149, 307, 323, 324, 341, 504 and 506 of the Indian Penal Code (for short "IPC") and under Sections

4 and 25 of the Arms Act along with Section 135 of the Maharashtra Police Act. First Information Report (for short "FIR") was registered on 2nd October, 2015.

5. The brief facts in relation to C.R. No.45 of 2015 are as follows:-

(a) The complainant is the owner of the agricultural land situated at village Gadade. His brother Mallappa is also residing near the house of the complainant along with his family. His sisters Gangavva Mahadeo Gadade and Sangavva Amasidha Gadade are also residing in the nearby vicinity. The complainant, has brothers namely Annappa, Lakappa, Malappa, Kanappa, Nigappa and Aamasiddh. The brothers of the complainant Annappa, Lakappa, Kanappa, Nigappa and Aamasiddh are residing with their families in their houses situated in the field.

(b) Complainant's brother Malappa has sold his share in the property to his brother Lakappa. Annappa was demanding the land from the complainant. On that count, there was a quarrel between them.

(c) On 27th September, 2015, there was a quarrel between the sisters of the complainant namely Gangavva and Sangavva, on account of the boundary line of property. The brothers of the complainant namely Anappa, Aamsiddha, nephew Bansiddha and Hanumant had tried to intervene in the quarrel with a view to resolve the same. Complainant and his brother Kanappa has also tried to intervene in the quarrel. However, brother of the complainant namely Aamasiddha stated that the dispute should not be resolved on that day and all of them left the place.

(d) The complainant and his brother Kanappa had gone to the field to bring the tractor. When they reached near the house of their brother Aanappa, it was noticed that people had gathered near the said house. At that time, Bansiddha and Aamasiddha intercepted the motor cycle of the complainant and his brother and they were abused. Bansiddha was holding sickle and Aamsiddha was carrying stick in their hands. At that time Aannappa, Avdhut Aannappa Gadade, Aamsiddha Aannappa Gadade, Bilayni Aamsiddha Gadade came their with sticks. Hanumant was armed with sword. They threatened the complainant and his brother that they will be killed. At that time, Bansiddha Haladvadru assaulted the complainant on his head by sickle and Aamsiddha assaulted him by stick. Others also assaulted by sticks. Hunumant was carrying sword and gave a blow on the head of Kanappa. All others also assaulted by sticks and fist blows. The complainant and his brother sustained injuries and they were taken to the hospital for treatment. On the basis of statement of complainant, this First Information Report (for short "FIR") was registered with Umadi Police Station, Sangli.

(e) Criminal Writ Petition No.5004 of 2015 assails FIR dated 28th September, 2015 registered with Umadi Police Station vide C.R. No.44 of 2015. The offences were registered under Section 307, 323, 324, 452, 504, 506 read with Section 34 of the Indian Penal Code (for short "IPC"). The FIR has been registered at the instance of the second respondent namely Aamsiddha Avdhut Haladvadru.

Petitioners therein are implicated as accused in the said FIR.

6. Brief facts as alleged in relation to C.R. No.44 of 2015 are as follows:

(a) Complainant Aamsiddha Avadhut Haladvadru is residing with his family in their house situated at the agricultural field situated at Umadi District, Sangli. The sisters of the complainant namely Sangavva is married to Aamsiddha Aanappa Gadade and his another sister Gangavva is married to Mahadeo Aannappa Gadade.

(b) On 27th September, 2015 there was a quarrel between Aamsiddha Gadade and Mahadeo Gadade on account of boundary line of the property. Hence, the complainant and his brother Malappa had tried to resolve that dispute. On account of quarrel, a complaint was lodged with the concerned police station at the instance of Mahadeo Gadade and hence, both the parties namely Aamsiddha Gadade and Mahadeo Gadade were called at the police station.

(c) At about 12.30 hrs, Ningappa and Siddhappa came near house of the complainant on motorcycle and started abusing the complainant. Ningappa was holding sword and Siddhappa was carrying axe in their hands. At the same time, Kanappa and Mahadu came at the said place and they also started abusing the complainant. They were holding sticks in their hands. Complainant called his brother Aannappa and Lakkappa. At that time, all the accused persons entered into the house of Aannappa and started assaulting the inmates of house. Ningappa assaulted the complainant on his head by sword. Others were also assaulted by sword, axe and sticks. All of them were treated at hospital. In view of the aforesaid incident, FIR was registered with Umadi Police station vide C.R.No.44 of 2015 at the instance of Aamsiddha Avdhut Haladvadru.

7. Petitioners in both these petitions have now approached before this Court and submitted that the parties involved in both these cases are closely related to each other. On intervention of elderly persons, the dispute between them are settled and, therefore, the FIR in the respective petitions may be quashed and set aside with the consent of the respondent/ complainant. The complainant in C.R.No.45 of 2015 have tendered an affidavit before this Court. Similarly, the injured persons in C.R.No.45 of 2015, Shri Kanappa Avdhut Haladvadru have also tendered affidavit. In the said affidavits it has been mentioned that due to misunderstanding the complainant have lodged the FIR No.45 of 2015 against the accused/ petitioners in W.P. No.4995 of 2015. It is further stated that they have no objection to quash the aforesaid FIR.

8. The complainant in C.R.No. 44 of 2015 namely Aamsiddha Avdhut Haladvadru have also submitted affidavit before this Court. In the said affidavit, it is submitted that due to misunderstanding he has filed the FIR bearing no.45 of 2015 and that he has no objection to quash the aforesaid FIR. Similarly, the other injured persons in C.R.No.44 of 2015, namely Aannappa Haladvadru, Yeravva Avdhut Haladvadru, Lakappa Avdhut Haladvadru, Mahadevi Annappa Haladvadru have also tendered affidavits reiterating the version of the

complainant therein.

9. Learned counsel for the petitioners as well as the respondents in both the petitions representing the accused and complainant have submitted that the parties involved in both the complaints are closely related to each other. Some of them are brothers. It is submitted that parties have arrived at amicable settlement and, therefore, to put to an end to the dispute they have agreed to withdraw the proceedings against each other. It is submitted that in view of the said settlement, the respective complainants and the injured persons have consented for quashing the impugned FIRs which are subject matter of both the petitions. Reliance is placed on the following decisions of the Apex Court as well as this Court.

(1) 2014(6) SCC 466 Narinder Singh & Ors. v. State of Punjab & Anr.

(2) 204(1) Bom. C.R. (Cri.) 93 B.S. Joshi & Ors. v. State of Haryana & Anr.

(3) 2012(12) S.C.C. 401, Jayrajsingh Digvijaysingh Rana v. State of Gujarat & Anr.

(4) 2008(1) Bom. C.R. (Cri.) 584 Abasaheb Yadav Honmane v. State of Maharashtra

(5) 2013 (3) Bom. C.R. (Cri.) 494, Raju @ Viswas Bharatrao Shitole & Ors. v. State of Maharashtra & Anr.

(6) 2010 (2) Bom. C.R. (Cri.) 229, Anjusingh Pramodsingh Rajput v. State of Maharashtra & Anr.

(7) Criminal Application No.2172 of 2009, Santosh Kaluram Landage & Ors. v. State of Maharashtra & Anr.

10. It is submitted by the learned counsel representing both the parties that in view of the aforesaid decisions, the impugned FIR"s may be quashed and set aside. It is submitted that no purpose will be served by keeping the proceedings pending as there are remote chances of conviction. It is submitted that the Apex Court as well as this Court in decision cited above have quashed and set aside the criminal proceedings on account of the settlement arrived at between the parties. It is submitted that in the decision cited, the Apex Court has quashed and set aside the proceedings wherein the charge under Section 307 of IPC was also invoked. It is submitted that in the present case also although the charge for the offences punishable under Section 307 of the IPC has been invoked, on account of amicable settlement, the said FIR"s may be quashed and set aside.

11. Learned APP has vehemently opposed the prayer made by the petitioners. It is submitted that the accused have committed serious offences and the Court should not interfere in the impugned FIR"s. It is submitted that the crime committed by the accused is heinous and, therefore, the Court may not invoke the writ jurisdiction or inherent powers under Section 482 of the Code of Criminal Procedure for quashing the impugned FIR"s.

12. We have perused the contents of the petition, the FIR as well as the affidavits tendered by the complainant as well as the injured persons. Learned APP have also pointed out the injury certificates in respect to the injuries sustained by the injured persons in the impugned complaints. We have noticed that the accused in the respective complaints have used dangerous weapons like sickle, axe and sword while committing the said crime. Medical Certificate produced by the learned APP shows that the injured Kanappa had sustained injury of parietal region. Similarly, the injured Aannappa has also sustained wound injuries in the parietal area of head. Medical certificate of Aamsiddha Avadhut Haladvadru also refers to the incise wound in the parietal area of head. Injury certificate of Lakappa Haladvadru also reflects injury on the parietal area of head. In the FIR, it is mentioned that some of the accused have given blows by dangerous weapons like sword and sickle on the head of the injured persons. In both the FIR's the offence under Section 307 of the IPC have been invoked.

13. The petitioners in both the petitions are impleaded as accused in the FIR under challenge. The petitioners and the respondent - complainant in respective FIRs have submitted before this Court that the dispute between the accused and the complainant have been amicably settled due to intervention of elderly persons. It was submitted that on account of the settlement, criminal proceedings initiated by the first informant in both the FIRs may be quashed. It is submitted that first informant have consented for quashing the impugned FIRs. They have filed affidavits in respective petitions before this Court. The victims/injured persons in both the complaints have also filed affidavit stating that they have no objection for quashing the FIRs as the dispute between both the parties are amicably settled and they need to maintain harmonious relationship. It was submitted that the parties involved in both the proceedings are closely related to each other and hence they want to bury the hatchet and lead peaceful life.

14. Learned counsel for the petitioner as well as respondent/first informant have submitted that on account of the settlement between the parties, this Court in exercise of writ jurisdiction under Article 226 of the Constitution of India may quash and set aside the impugned FIRs. It was submitted that there are remote chances of conviction and in the interest of justice, proceedings initiated by the parties against each other may be quashed and set aside.

15. Learned APP appearing for the State submitted that the prayer of quashing may not be exercised in the present cases on the ground of settlement. It was submitted that the accused had used dangerous weapons for assaulting each other and have attacked on vital parts of the injured persons. It was submitted that the offences committed by the accused are against the society.

16. It is pertinent to note that the offence under Section 307 of the Indian Penal Code was invoked in the present cases. Although the parties are related to each other, the manner in which the offences are committed shows that they have no fear of law. The accused used deadly weapons like sword, sickles and ax for committing the offences. Taking into consideration the nature and gravity of the

offence, we are not inclined to quash the impugned proceedings. Considering the nature of weapon used and the nature of blows inflicted upon the injured persons, it is not possible to give a finding that the accused have not committed the offence punishable under Section 307 of the IPC. Prima facie offence under Section 307 of the IPC is made out. This is not a fit case to exercise power under Article 226 of the Constitution of India or the inherent powers under Section 482 of the Code of Criminal Procedure for quashing the FIR which are the subject matter of both the petitions.

17. In the case of *Gian Singh v. State of Punjab & Anr.* (2012) 10 SCC 303 the Apex Court has observed that Section 482 of the Code as its very language suggests saves the inherent powers of the High Court which it has by virtue of it being a superior Court, to prevent abuse of process of any Court or otherwise to secure the ends of justice. It begins with the word "Nothing in this Code" which means that the provision is an overriding provision. It is further observed that the guidelines for exercise of such powers is provided under Section 482 itself i.e. thus, to prevent the abuse of process of any Court or otherwise to secure the ends of justice. The power should be exercise very sparingly and with great caution and circumspection.

18. In paragraph 58 of the aforesaid decision, the Apex Court has categorized the proceedings with broad guidelines, which can be quashed on the ground of amicable settlement between the parties. The said paragraph reads as follows:

"58. Where the High Court quashes a criminal proceeding having regard to the fact that the dispute between the offender and the victim has been settled although the offences are not compoundable, it does so as in its opinion, continuation of criminal proceedings will be an exercise in futility and justice in the case demands that the dispute between the parties is put to an end and peace is restored; securing the ends of justice being the ultimate guiding factor. No doubt, crimes are acts which have harmful effect on the public and consist in wrongdoing that seriously endangers and threatens the well being of the society and it is not safe to leave the crime-doer only because he and the victim have settled the dispute amicably or that the victim has been paid compensation, yet certain crimes have been made compoundable in law, with or without the permission of the Court. In respect of serious offences like murder, rape, dacoity, etc. or other offences of mental depravity under IPC or offences of moral turpitude under special statutes, like the Prevention of Corruption Act or the offences committed by public servants while working on that capacity, the settlement between the offender and the victim can have no legal sanction at all. However, certain offences which overwhelmingly and predominantly bear civil flavour having arisen out of civil, mercantile, commercial, financial, partnership or such like transactions or the offences arising out of matrimony, particularly relating to dowry, etc. or the family dispute, where the wrong is basically to the victim and the offender and the victim have settled all disputes between them amicably, irrespective of the fact that such offences have not been made

compoundable, the High Court may within the framework of its inherent power, quash the criminal proceedings or criminal complaint or FIR if it is satisfied that on the face of such settlement, there is hardly any likelihood of the offender being convicted and by not quashing the criminal proceedings, justice shall be casualty and ends of justice shall be defeated. The above list is illustrative and not exhaustive. Each case will depend on its own facts and no hard-and-fast category can be prescribed."

19. In paragraph 61 of the said decision, the Apex Court has observed that before exercising power of quashing, 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. It is further observed that such offences are not private in nature and have a serious impact on society. Paragraph 61 of the said decision reads thus:

"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 favour 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."

20. Thus, the Apex Court in the aforesaid decision has laid down the principle that in respect of serious offences or offences of mental depravity, the powers of quashing should not be exercised and mere settlement between the parties would not be a ground to quash the proceedings by the High Court.

21. Learned counsel for the petitioners had relied upon the decision of the Apex Court in the case of *Narinder Singh & Ors. v. State of Punjab & Anr.* 2014(6) SCC 466. It is submitted that the Apex Court in the aforesaid decision was pleased to quash the FIR wherein the charge under Section 307 of the IPC was invoked. It is further submitted that the Court in the said decision has considered the fact that prosecution would not result into conviction.

22. In the aforesaid decision, the Apex Court was pleased to observe that the question is as to whether an offence under Section 307 of the IPC falls within the parameter laid down in *Gian Singh's* (Supra) case. It is further observed that the first limb of this question is to reflect the nature of the offence. The charge against the accused in such cases is that he had attempted to take life of another person (victim). On this touch stone should we treat it as a crime of serious nature so as to fall in the category of "heinous crime". Finding on answer to this question becomes imperative as the philosophy and jurisprudence of sentencing is based thereupon. If it is heinous crime of serious nature, then it has been treated as crime against the society and not against the individual alone. Then, it becomes the solemn duty of the State to punish crime - doer. Even if there is a settlement/ compromise between the perpetrator of the crime and the victim, that is of no consequence. The society demands that the individual offender should be punished in order to deter other effectively as it amounts to greatest good of the greatest number of persons in a society. In paragraph 26 of the aforesaid decision, the Apex Court was pleased to make the following observations:

"26 Having said so, we would hasten to add that though it is a serious offence as the accused person(s) attempted to take the life of another person/victim, at the same time the court cannot be oblivious to hard realities that many times whenever there is a quarrel between the parties leading to physical commotion and sustaining of injury by either or both the parties, there is a tendency to give it a slant of an offence under Section 307 Indian Penal Code as well. Therefore, only because FIR/Charge-sheet incorporates the provision of Section 307 Indian Penal Code would not, by itself, be a ground to reject the petition under Section 482 of the Code and refuse to accept the settlement between the parties. We

are, therefore, of the opinion that while taking a call as to whether compromise in such cases should be effected or not, the High Court should go by the nature of injury sustained, the portion of the bodies where the injuries were inflicted (namely whether injuries are caused at the vital/delicate parts of the body) and the nature of weapons used etc. On that basis, if it is found that there is a strong possibility of proving the charge under Section 307 Indian Penal Code, once the evidence to that effect is led and injuries proved, the Court should not accept settlement between the parties. On the other hand, on the basis of prima facie assessment of the aforesaid circumstances, if the High Court forms an opinion that provisions of Section 307 Indian Penal Code were unnecessary included in the charge sheet, the Court can accept the plea of compounding of the offence based on settlement between the parties"

23. From the aforesaid observations, it can be adduced that merely on an actionable charge under Section 307 of the IPC, the Court may not refrain from exercising power of quashing on the ground of settlement. However, it is open to the Court to examine the nature of injury sustained, portion of the bodies where the injuries were inflicted and nature of weapons used etc. As stated above, in the case before us, we have examined the vital aspects of the prosecution case, manner of assault, nature of injuries, the vital parts where the injuries were inflicted and nature of weapons used in the crime and we have no hesitation to come to the conclusion that the accused have committed heinous crime and it would not be justifiable to exercise the power of quashing the present proceedings. On the basis of prima facie assessment of the circumstances, in the present proceedings, it is not possible to form an opinion that provisions of Section 307 of IPC were unnecessarily invoked in the impugned FIR's.

24. In paragraph 29.6, the Apex Court in Narinder Singh (Supra) case has categorically observed that the offence under Section 307 of the 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 one. Apex Court further observed that it would be open to the High Court to examine as to whether incorporation of Section 307 of the 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 of 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. The Court also can 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. The Apex

Court was pleased to quash the proceedings in the facts and circumstances of the said case. However, on the basis of the observations made in the said decision, we find that this is not the fit case to exercise power under the writ jurisdiction or the inherent powers under Section 482 of the Code of Criminal Procedure of quashing the impugned FIR on the ground of settlement between the parties.

25. In the case of *State of Rajasthan v. Shambhu Shamb Kewat*, 2014 (4) SCC 149 4 2008 (1) Bom. C.R. (Cri.) 584 The Apex Court after referring to the earlier judgments opined that the commission of offence under Section 307 of the IPC would be crime against the society at large and not a crime against an individual only.

26. Considering the factual matrix of the present case, the manner in which the crime is committed and taking into consideration the observations made by the Apex Court in *Gian Singh (Supra)* as well as *Narinder Singh (Supra)* case, we are of the opinion that the power of quashing should not be exercised in the present case on the ground of settlement.

27. In the case of *Abasaheb Yadav Honmane v. State of Maharashtra*, Full Bench of this Court was pleased to consider the question of power of this Court for quashing the proceedings on the ground of settlement under Section 482 of the Code of Criminal Case. In paragraph 7.10 of the said decision of the Full Bench, it is observed as follows:

"7.10 We have held that the inherent powers should be used in cases falling in either of the categories stated in section 482 itself. This wide power must be exercised with caution and circumspection. The inherent powers of the Court of competent jurisdiction can be invoked for quashing the FIR or criminal proceedings but the Court would pass such orders only if the principles laid down in judicial dicta are satisfied and either of the three objects stated in Section 482 of the Code are achieved by exercise of such power. It is neither permissible nor proper for the Court to provide a strait-jacket formula regulating exercise of inherent powers under Section 482 of the Code, particularly in relation to quashing, as it would depend upon the fact and circumstances of a given case. No precise and inflexible guidelines or strait-jacket formula or catalogue of the circumstances in which power should or should not be exercised, may be laid down. Still, while recapitulating the enunciated principles in the judgments of the Courts, particularly the Supreme Court of in the cases of (i) *State of Haryana v. Bhajalal*, AIR 1992 S.C. 604, (ii) *Indian Oil Corporation v. NEPC India Ltd.*, 2006(6) S.C.C. 736, (iii) *Central Bureau of Investigation v. Ravi Shankar*, 2006(7) S.C.C. 188, (iv) *Popular Muthiah v. State represented by Inspector of Public*, 2006 (7) S.C.C. 296, (v) *Sanapareddy Maheedhar v. State of A.P.*, 2008, A.I.R.S.C.W.11 and (vi) *Som Mittal v. Government of Karnataka (Criminal Appeal No.206 of 2008)* decided on 21st February, 2008), and other well accepted canons of criminal jurisprudence, we state the principles as under:-

1. The High Court, in exercise of its inherent powers under Section 482 of the Code, may interfere in proceedings relating to cognisable offences to prevent abuse of the process of any court or otherwise to secure the ends of justice very sparingly and with circumspection;
2. Inherent power under section 482 of the Criminal Procedure Code should not be exercised to stifle a legitimate prosecution.
3. Power under section 482 of the Criminal Procedure Code is not unlimited. It can inter alia be exercised where the Code is silent, where the power of the court is not treated as exhaustive, or there is a specific provision in the Code; or the statute does not fall within the purview of the Code because it involves application of a special law;
4. The inherent power of the High Court can be invoked in respect of matters covered by the provisions of the Code unless there is specific provision to redress the grievance of the aggrieved party;
5. Inherent power under section 482 of the Code overrides provisions of the Code but evidently cannot be exercised in violation/contravention of a statutory provision or power created under any other enactment;
6. Power under Section 482 to quash proceeding should not be used mechanically or routinely, but with care and caution;
7. Such power should be used only when a clear case for quashing is made out and failure to interfere would lead to a miscarriage of justice;
8. Inherent jurisdiction under Section 482 Cr.P.C. may be exercised in following three circumstances.
 - (i) to give effect to an order under the Cr. P.C.
 - (ii) to prevent abuse of the process of court; and
 - (iii) to otherwise secure the ends of justice.
9. Inherent power should be exercised to do the right and undo a wrong;
10. In exercise of inherent power under Section 482 of the Code, Court would be justified to quash any proceeding if the initiation/continuation of such proceeding amounts to "abuse of the process" of court or quashing of the proceeding would otherwise serve the ends of justice";
11. While exercising inherent power under Section 482 of the Code, High Court must refrain from making imaginary journey in the realm of possible harassment which may be caused to concerned petitioner on account of investigation of FIR or complaint;
12. While exercising inherent power under Section 482 of the Code, the High Court must all the while be conscious of the fact that its exercise of such power

will not result in miscarriage of justice and will not encourage those accused to repeat the crimes;

13. The inherent powers of High Court under Section 482 of the Code, cannot be exercised in regard to matters specifically covered by the other provisions of the Criminal Procedure Code;

14. For the purpose of quashing, the complaint has to be examined as a whole, but without examining the merits of the allegations. Neither a detailed inquiry nor a meticulous analysis of the material nor an assessment of the reliability or genuineness of the allegations in the complaint, is warranted while examining prayer for quashing of a complaint;

15. The exercise of inherent jurisdiction under Section 482 of the Code should not be such as to harm legitimate expectation of the people and the society, that the persons committing offence are expeditiously brought to trial and if found guilty are adequately punished;

16. Inherent powers may be used only when reasonably necessary for the court to be able to function and courts may not exercise inherent powers merely because their use would be convenient or desirable;

17. The exercise of inherent power would be necessary whenever it is just or equitable and it should be to ensure observance of the due process of law, to prevent improper vexation or oppression and to do justice between the parties and to secure a fair trial; and

18. While passing an order quashing FIR or criminal proceedings, as the case may be, it may be appropriate for the Court to examine the impact of such an order upon the system of administration of criminal justice and the social fabric. This, of course, is not a determinative factor but only a relevant consideration.

28. In the concluding paragraph of the aforesaid decision, the Full Bench has observed that the inherent powers under Section 482 of the Code include powers to quash FIR, investigation or any criminal proceedings pending before the High Court subordinate to it and are of wide magnitude and ramification. Such powers can be exercised to secure ends of justice, prevent abuse of the process of any Court and to make such orders as may be necessary to give effect to any order under this Court, depending upon the facts of a given case. These powers are neither limited nor curtailed by any other provisions of the code including Section 320 of the Code. The Court could exercise this power in offences of any kind, whether compoundable or non compoundable. However, such inherent powers are to be exercised sparingly and with caution and in conformity with the precepts indicated in paragraph 7.10 of this Judgment.

29. We have perused the affidavit tendered by the complainant and the injured person in the respective crimes which are the subject matter of the present petitions. In the affidavits tendered by the original complainant in C.R.No.45 of 2015, which is the subject matter of Criminal Writ Petition No.4995 of 2015. It is

mentioned that due to misunderstanding he has filed the impugned FIR and he states that now he has no objection to quash the aforesaid FIR. Similarly, the complainant in C.R.No.44 of 2015 has stated that he has filed the FIR bearing C.R.No.44 of 2015 due to misunderstanding and that he has now no objection to quash the proceedings. It is pertinent to note that both the FIR's are relating to the incident of assault with deadly weapons wherein the accused are named and specific overt act is attributed to them. It is pertinent to note that the victims had sustained injuries on their person and hence it is difficult to digest that the complaints were lodged due to misunderstanding. We have also noted the injuries sustained by the injured persons as reflected in the medical case papers. The injuries are in parietal region/parietal area of head etc. We have also noted that the accused in C.R.No.44 of 2015, have given blow on the head of the injured by sword. Similarly, the accused in C.R.No.45 of 2015 have inflicted blow on the head of the injured persons by sickle and sword. The other accused were armed with sticks. Thus, the use of deadly weapons by one group against the another and inflicted blows on the person of the opponents which includes vital parts of the body, clearly shows that the accused have committed serious crime which can be termed as heinous.

30. In another decision of Apex Court in case of State of Madhya Pradesh v. Deepak and others 5, the Apex Court had 5 (2014) 10 SCC 285 considered the similar issue of quashing proceeding on account of amicable settlement. In the factual matrix of the said case, the accused was charged with an offence under Section 307 of IPC. In paragraph 10 of the said decision, the Apex Court was pleased to observe that the crime alleged to have been committed by the accused persons was a crime against the society at large. It is further observed that Criminal Law is designed as a mechanism for achieving social control and its purpose is the regulation of conduct and activities, within the society. It is also observed that the High Court was not right in thinking that it was only an injury to the person and since the accused persons had received the monetary compensation and settled the matter, the crime as against them was wiped off. Criminal justice system has a larger objective to achieve, that is, safety and protection of the people at large and it would be a lesson not only to the offender, but to the individuals at large so that such crimes would not be committed by anyone and money would not be a substitute for the crime committed against the society. Taking a lenient view on a serious offence like the present one, will leave a wrong impression about the criminal justice system and will encourage further criminal acts, which will endanger the peaceful coexistence and welfare of the society at large.

31. In the decision referred to herein above in the case of Narinder Singh and others (supra), it has been observed that any person committing criminal acts, is subject to penal schemes, which may be of various kinds. Mostly punishment is either of imprisonment or monetary or both. Imprisonment can be rigorous or simple in nature. Why are those persons who commit offences subjected to penal consequences? There are many philosophies behind such sentencing justifying

these penal consequences. The philosophical/jurisprudential justification can be retribution, incapacitation, specific deterrence, general deterrence, rehabilitation, or restoration. Any of the above or a combination thereof can be the goal of sentencing. The Apex Court in the said decision has further observed that in various countries, sentencing guidelines are provided, statutorily or otherwise, which may guide Judges for awarding specific sentence. In India, we do not have any such sentencing policy till date. The prevalence of such guidelines may not only aim at achieving consistencies in awarding sentences in different cases, such guidelines normally prescribe the sentencing policy as well, namely, whether the purpose of awarding punishment in a particular case is more of a deterrence or retribution or rehabilitation etc. In the absence of such guidelines in India, the Courts go by their own perception about the philosophy behind the prescription of certain specified penal consequences for particular nature of crime. For some deterrence and/or vengeance becomes more important whereas another Judge may be more influenced by rehabilitation or restoration as the goal of sentencing. Sometimes, it would be a combination of both which would weigh in the mind of the Court in awarding a particular sentence. However, that may be a question of quantum. It is further observed by the Apex Court that what follows from the discussion behind the purpose of sentencing is that if a particular crime is to be treated as crime against the society and/or heinous crime, then the deterrence theory as a rationale for punishing the offender becomes more relevant, to be applied in such cases. Therefore, in respect of such offences which are treated against the society, it becomes the duty of the State to punish the offender.

32. In view of the law laid down in various decisions referred to herein above and on considering the factual aspects of the present case, we are not inclined to exercise the powers under writ jurisdiction and or the inherent power under Section 482 of the Code. We have noted that the petitioners accused have committed a serious crime against the society. The dispute is not of private nature. The offence, as submitted by learned counsel for the petitioners, is not only between two individuals. The complainant cannot settle the dispute by filing an affidavit, which is in respect to a crime which is against the society at large. In such crime, he is not only an aggrieved party but the entire society is concerned with such crime. The petitioners accused, if exonerated in a particular crime, may resort to similar crime with other members of the society. Therefore, no leniency can be shown to such accused who have indulged into crimes of serious nature. Hence, we are not inclined to interfere in the proceedings which are initiated against the petitioners. The application preferred by the petitioners deserves to be dismissed.

33. We clarify that the observations made in this judgment about the complicity of the petitioners are made only for the limited purpose of considering the case under Section 482 for quashing on the ground of settlement. All contentions of the petitioners before the Trial Court are kept open. The Trial Court will not be influenced by these observations at the time of trial.

34. In view of the above, We pass the following order:

ORDER

(i) Rule is discharged.

(ii) Criminal Writ Petition No.4995 of 2015 is dismissed.

(iii) Criminal Writ Petition No.5004 of 2014 is dismissed.

(iv) No order as to costs.