

**(2018) 10 UK CK 0117**

**In the Uttarakhand High Court**

**Case No :** Criminal Miscellaneous Application No. 1581 Of 2018, Compounding Application No. 10926 Of 2018

Amit Rod And Others

APPELLANT

Vs

State Of Uttarakhand And Others

RESPONDENT

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**Date of Decision :** 31-10-2018

**Acts Referred:**

Indian Penal Code, 1860 — Section 147, 148, 307, 323, 406, 420, 427, 467, 468, 471A, 498A, 504, 506  
Code of Civil Procedure, 1908 — Section 320, 320(2), 482  
Constitution of India, 1950 — Article 141, 226, 227

**Citation :** (2018) 10 UK CK 0117

**Hon'ble Judges :** Sharad Kumar Sharma, J

**Bench :** Single Bench

**Advocate :** Rajendra Singh Azad, V.K. Jemini, Manoj Joshi

**Final Decision :** Allowed

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## **Judgement**

Sharad Kumar Sharma, J.

1. The present C-482 Application was heard in the presence of the parties, who were duly identified by their counsel. The judgment in the matter was reserved on 9th October, 2018. The reason for reserving the judgment was that the objection, which was raised by the learned Deputy Advocate General for the State of Uttarakhand to the effect that the offences which were levelled against the applicants, in the compounding application, since being the offences under Sections 147, 148, 323, 307, 427, 504 and 506 of the I.P.C. Out of the aforesaid offences, since the offences under Sections 147, 148, 307 and 506 of the I.P.C. are not compoundable, the learned Deputy Advocate General have raised objection that the present compounding application deserves to be rejected.

2. At that point of time, this Court was seized with another judgment, which has been rendered on 28th September, 2018 in C-482 Application No. 1538 of 2018, Pan Singh Rana Vs. State of Uttarakhand and another, having an identical issue

pertaining to the compounding of the offences under Sections 307 and 506 I.P.C. was under consideration.

3. Reverting back to the present case, the applicants have been made accused by the complainant/respondents in an offence, said to have been committed on 27th September, 2015, which was reported to

the Police Station Kotwali Roorkee, District Haridwar as Case Crime No. 285 of 2015, under Sections 147, 148, 323, 307, 427, 504 and 506 of the I.P.C. On the complaint of respondent No. 3, an investigation

was conducted and after the investigation, a chargesheet has been submitted by the Investigating Officer, being Chargesheet No. 212 of 2015 dated 27th February, 2015, on which, cognizance was taken and

the summoning order dated 1st March, 2018 has been issued by the learned Court of Additional Chief Judicial Magistrate Roorkee, District Haridwar. Consequently, the present C-482 Application has been filed by the parties along with the Compounding Application, which has been duly signed by all the parties and their counsel and supported by their respective affidavits.

4. In para 4 of the affidavit, filed in support of the compounding application, following averments have been made :-

"4. That it is also pertinent to mention here that the applicants/accused has entered into compromise with the opposite party no.2 to 4 outside the court and both the parties have settled their dispute outside the court and now there is no further dispute remain between the parties by the interference of the respectable persons of the society and the present criminal litigation has come to end in view of the compromise among them and the offence is of purely personal nature and without interference of this Hon'ble Court the applicants cannot entered into compromise under Sections 147, 148, 307 of IPC because both the parties cannot entered into compromise before the learned Trial Court under Section 147, 148, 307 of IPC and rest of the sections are compoundable offence. The deponent / opposite party no. 2 and 4 have entered into compromise with the applicant / accused in the present case willingly without any fear or pressure or threat. And they have no objection for quashing the entire criminal proceeding of the present case by this Hon'ble Court pending in the learned Court of Additional Chief Judicial Magistrate, Roorkee, District Haridwar as Criminal Case No. 865 of 2018, State Vs. Amit Rod and others under Sections 147, 148, 323, 307, 427, 504 and 506 of IPC, (Case Crime No. 285 of 2015) Police Station Kotwarli Roorkee, District Haridwar."

5. The complainant / Pradeep Kumar, who is present in person, supported the stand taken in the affidavit and he submits that he does not want to prosecute the applicants any further. In view of the fact that the complainant himself has expressed that he does not want to prosecute the applicants any further, owing to the compromise, which they have entered into, it would be absolutely futile

exercise to burden upon the litigants and parties to the C-482 Application to face the trial and that too which have no logical conclusion and it would be absolutely an exercise of futility.

6. To meet the objection taken by the learned Deputy Advocate General, pertaining to the non-compoundability of the offences under the aforesaid Sections, since being not compoundable under Section 320 of the Cr.P.C., this Court after considering the fact that the parties have settled their scores amicably, no fruitful purpose would be served to force upon the applicants to undergo the trial entailing time and money, as it would be a futile exercise with no logical conclusion, more particularly, in view of the various judgments rendered by the Hon'ble Apex Court.

7. The Hon'ble Apex Court in the case of *Gian Singh Vs. State of Punjab* and another reported in (2012) 10 SCC 303 has held as follows:

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

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 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."

8. The Hon'ble Apex Court in the aforesaid case of Gian Singh (Supra) has also dealt with the judgment in the cases of B.S. Joshi and others Vs. State of Haryana and another reported in (2003) 4 SCC 675 and Nikhil Merchant Vs. Central Bureau of Investigation and another reported in (2008) 9 SCC 677.

9. The Hon'ble Apex Court in the case of B.S. Joshi and others Vs. State of Haryana reported in (2003) 4 SCC 675, has held as follows:

"6. In Pepsi Food Ltd. & Anr. v. Special Judicial Magistrate & Ors. [(1998) 5 SCC 749], this Court with reference to Bhajan Lal's case observed that the guidelines

laid therein as to where the court will exercise jurisdiction under Section 482 of the Code could not be inflexible or laying rigid formulae to be followed by the courts. Exercise of such power would depend upon the facts and circumstances of each case but with the sole purpose to prevent abuse of the process of any court or otherwise to secure the ends of justice. It is well settled that these powers have no limits. Of course, where there is more power, it becomes necessary to exercise utmost care and caution while invoking such powers.

8. It is, thus, clear that Madhu Limaye's case does not lay down any general proposition limiting power of quashing the criminal proceedings or FIR or complaint as vested in Section 482 of the Code or extra ordinary power under Article 226 of the Constitution of India. We are, therefore, of the view that if for the purpose of securing the ends of justice, quashing of FIR becomes necessary, Section 320 would not be a bar to the exercise of power of quashing. It is, however, a different matter depending upon the facts and circumstances of each case whether to exercise or not such a power.

10. In *State of Karnataka v. L. Muniswamy & Ors.* [(1977) 2 SCC 699], considering the scope of inherent power of quashing under Section 482, this Court held that in the exercise of this wholesome power, the High Court is entitled to quash proceedings if it comes to the conclusion that ends of justice so require. It was observed that in a criminal case, the veiled object behind a lame prosecution, the very nature of the material on which the structure of the prosecution rests and the like would justify the High Court in quashing the proceeding in the interest of justice and that the ends of justice are higher than the ends of mere law though justice had got to be administered according to laws made by the legislature. This Court said that the compelling necessity for making these observations is that without a proper realization of the object and purpose of the provision which seeks to save the inherent powers of the High Court to do justice between the State and its subjects, it would be impossible to appreciate the width and contours of that salient jurisdiction. On facts, it was also noticed that there was no reasonable likelihood of the accused being convicted of the offence. What would happen to the trial of the case where the wife does not support the imputations made in the FIR of the type in question. As earlier noticed, now she has filed an affidavit that the FIR was registered at her instance due to temperamental differences and implied imputations. There may be many reasons for not supporting the imputations. It may be either for the reason that she has resolved disputes with her husband and his other family members and as a result thereof she has again started living with her husband with whom she earlier had differences or she has willingly parted company and is living happily on her own or has married someone else on earlier marriage having been dissolved by divorce on consent of parties or fails to support the prosecution on some other similar grounds. In such eventuality, there would almost be no chance of conviction. Would it then be proper to decline to exercise power of quashing on the ground that it would be permitting the parties to compound non-compoundable offences. Answer clearly has to be in 'negative'. It

would, however, be a different matter if the High Court on facts declines the prayer for quashing for any valid reasons including lack of bona fides.

11. In *Madhavrao Jiwajirao Scindia & Ors. v. Sambhajirao Chandrojirao Angre & Ors.* [(1988) 1 SCC 692], it was held that while exercising inherent power of quashing under Section 482, it is for the High Court to take into consideration any special features which appear in a particular case to consider whether it is expedient and in the interest of justice to permit a prosecution to continue. Where, in the opinion of the Court, chances of an ultimate conviction is bleak and, therefore, no useful purpose is likely to be served by allowing a criminal prosecution to continue, the court may, while taking into consideration the special facts of a case, also quash the proceedings.

15. In view of the above discussion, we hold that the High Court in exercise of its inherent powers can quash criminal proceedings or FIR or complaint and Section 320 of the Code does not limit or affect the powers under Section 482 of the Code."

10. The Hon'ble Apex Court in the case of *Nikhil Merchant* (supra) has held as follows:-

"7. In support of the aforesaid contentions made on behalf of the appellant before the High Court, reference was made to the decision of this Court in the case of *Central Bureau of Investigation v. Duncans Agro Industries Ltd.* (1996) 5 SCC 591 wherein on the basis of facts similar to the facts of this case, this Court had held that even if an offence of cheating is prima facie made out, such offence is a compoundable offence and compromise decrees passed in the suits instituted by the Bank, for all intents and purposes, amount to compounding of the offence of cheating. This Court accordingly, upheld the order of the High Court quashing the criminal complaint after the civil action had been compromised between the parties.

8. Apart from the said decision, reliance was also placed on another decision of this Court in the case of *B.S. Joshi and Ors. v. State of Haryana and Anr* (2003) 4 SCC 675 wherein while dealing with the proceedings under Sections 498A and 406 Indian Penal Code involving matrimonial disputes and offences, this Court held that even though the provisions of Section 320 of the Code of Criminal Procedure would not apply to such offences, which are not compoundable it did not limit or affect the powers under Section 482 and the powers conferred on the High Courts and the Supreme Court under Articles 226 and 136 of the Constitution of India. Referring to the decision of this Court in *State of Haryana v. Bhajan Lal* 1992 Supp (1) SCC 335 this Court observed that the categories indicated in the said case which warranted exercise of power under Section 482 CrPC were only illustrative and not exhaustive. This Court ultimately held that the High Court in exercise of its inherent powers can quash criminal proceedings or a FIR or complaint and Section 320 CrPC does not limit or affect the power of the High Court under Section 482 of the Code.

9. After considering the said decision in the light of the submissions made on behalf of the respective parties, the High Court took the view that in the Duncans Agro case (supra) this Court was considering the situation involving Section 420 IPC which was compoundable under Section 320(2) CrPC, while in the instant case, the charge sheet was also under Sections 467, 468, 471-A IPC along with the provisions of the Prevention of Corruption Act, which were non-compoundable. The High Court, therefore, held that neither of the said two cases would have application to the facts of this case and rejected the appellant's prayer for discharge from the criminal cases."

11. In a judgment as reported in (2014) 15 Supreme Court Cases 235 in GOLD QUEST INTERNATIONAL PRIVATE LIMITED VS. STATE OF TAMIL

NADU AND OTHERS, the Hon'ble Apex Court has held as under:

"5. The main ground on which the Division Bench appears to have interfered with the order of the learned Single Judge is that out of 172 claimants, there was no compromise from two persons. However, there was sufficient evidence on record to suggest that the whereabouts of those two persons were not known, nor have they ever challenged the order of learned Single Judge. The Division Bench while accepting the arguments of the State-Respondents have relied on a decision of this Court in Union of India v. Bhajan Lal (AIR 1992 SC 604 : 1992 Supp. (1) SCC 335). The said judgment appears to have been discussed by this Court in B.S. Joshi and Ors. v. State of Haryana and Anr. (2003) 4 SCC 675. Relevant paragraphs of B.S. Joshi's case (supra) are reproduced below:

"2. The question that falls for determination in the instant case is about the ambit of the inherent powers of the High Courts Under Section 482 of the Code of Criminal Procedure (the Code) read with Articles 226 and 227 of the Constitution of India to quash criminal proceedings. The scope and ambit of power Under Section 482 has been examined by this Court in a catena of earlier decisions but in the present case that is required to be considered in relation to matrimonial disputes.

The matrimonial disputes of the kind in the present case have been on considerable increase in recent times resulting in filing of complaints by the wife Under Sections 498-A and 406 Indian Penal Code not only against the husband but his other family members also. When such matters are resolved either by the wife agreeing to rejoin the matrimonial home or mutual separation of husband and wife and also mutual settlement of other pending disputes as a result whereof both sides approach the High Court and jointly pray for quashing of the criminal proceedings or the first information report or complaint filed by the wife Under Sections 498-A and 406 Indian Penal Code, can the prayer be declined on the ground that since the offences are non-compoundable Under Section 320 of the Code, therefore, it is not permissible for the court to quash the criminal proceedings or FIR or complaint.

\* \* \*

4. The High Court has, by the impugned judgment, dismissed the petition filed by the Appellants seeking quashing of the FIR for in view of the High Court the offences Under Sections 498-A and

406 Indian Penal Code are non-compoundable and the inherent powers Under Section 482 of the Code cannot be invoked to bypass the mandatory provision of Section 320 of the Code. For its view, the High Court has referred to and relied upon the decisions of this Court in *State of Haryana v. Bhajan Lal*: 1992 Suppl. (1) SCC 335], *Madhu Limaye v. State of Maharashtra*: (1977) 4 SCC 551] and *Surendra Nath Mohanty v. State of Orissa*: (1999) 5 SCC 238].

\* \* \*

14. There is no doubt that the object of introducing Chapter XX-A containing Section 498-A in the Indian Penal Code was to prevent torture to a woman by her husband or by relatives of her husband. Section 498-A was added with a view to punishing a husband and his relatives who harass or torture the wife to coerce her or her relatives to satisfy unlawful demands of dowry. The hypertechnical view would be counterproductive and would act against interests of women and against the object for which this provision was added. There is every likelihood that non-exercise of inherent power to quash the proceedings to meet the ends of justice would prevent women from settling earlier. That is not the object of Chapter XX-A of the Indian Penal Code.

15. In view of the above discussion, we hold that the High Court in exercise of its inherent powers can quash criminal proceedings or FIR or complaint and Section 320 of the Code does not limit or affect the powers Under Section 482 of the Code.

6. Subsequent to the case of *B.S. Joshi (supra)* in *Nikhil Merchant v. Central Bureau of Investigation and Anr.* (2008) 9 SCC 677, this Court has made the following observations in paragraphs 30 and 31 which are quoted below:

30. In the instant case, the disputes between the Company and the Bank have been set at rest on the basis of the compromise arrived at by them whereunder the dues of the Bank have been cleared and the Bank does not appear to have any further claim against the Company. What, however, remains is the fact that certain documents were alleged to have been created by the Appellant herein in order to avail of credit facilities beyond the limit to which the Company was entitled. The dispute involved herein has overtones of a civil dispute with certain criminal facets. The question which is required to be answered in this case is whether the power which independently lies with this Court to quash the criminal proceedings pursuant to the compromise arrived at, should at all be exercised?

31. On an overall view of the facts as indicated hereinabove and keeping in mind the decision of this Court in *B.S. Joshi* case [(2003) 4 SCC 675], and the compromise arrived at between the Company and the Bank as also Clause 11 of the consent terms filed in the suit filed by the Bank, we are satisfied that this is a

fit case where technicality should not be allowed to stand in the way in the quashing of the criminal proceedings, since, in our view, the continuance of the same after the compromise arrived at between the parties would be a futile exercise.

7. In *Gian Singh v. State of Punjab and Anr.*: (2012) 10 SCC 303, judgments in *B.S. Joshi (supra)* and *Nikhil Merchant (supra)* were considered by a three-Judge Bench of this Court and it has found that the view taken in aforesaid two cases by this Court is correct. Relevant paragraphs of the judgment in *Gian Singh (supra)* read as follows:

57. Quashing of offence or criminal proceedings on the ground of settlement between an offender and victim is not the same thing as compounding of offence. They are different and not interchangeable. Strictly speaking, the power of compounding of offences given to a court Under Section 320 is materially different from the quashing of criminal proceedings by the High Court in exercise of its inherent jurisdiction. In compounding of offences, power of a criminal court is circumscribed by the provisions contained in Section 320 and the court is guided solely and squarely thereby while, on the other hand, the formation of opinion by the High Court for quashing a criminal offence or criminal proceeding or criminal complaint is guided by the material on record as to whether the ends of justice would justify such exercise of power although the ultimate consequence may be acquittal or dismissal of indictment.

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59. *B.S. Joshi* [MANU/SC/0230/2003 : (2003) 4 SCC 675], *Nikhil Merchant* (2008) 9 SCC 677], *Manoj Sharma*: (2008) 16 SCC 1 and *Shiji*: (2011) 10 SCC 705] do illustrate the principle that the High Court may quash criminal proceedings or FIR or complaint in exercise of its inherent power Under Section 482 of the Code and Section 320 does not limit or affect the powers of the High Court Under Section 482. Can it be said that by quashing criminal proceedings in *B.S. Joshi*, *Nikhil Merchant*, *Manoj Sharma* and *Shiji* this Court has compounded the non-compoundable offences indirectly ? We do not think so. There does exist the distinction between compounding of an offence Under Section 320 and quashing of a criminal case by the High Court in exercise of inherent power Under Section 482. The two powers are distinct and different although the ultimate consequence may be the same viz. acquittal of the accused or dismissal of indictment.

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61. The position that emerges from the above discussion can be summarized 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 proceedings.

8. In view of the principle laid down by this Court in the aforesaid cases, we are of the view in the disputes which are substantially matrimonial in nature, or the civil property disputes with criminal facets, if the parties have entered into settlement, and it has become clear that there are no chances of conviction, there is no illegality in quashing the proceedings Under Section 482 Code of Criminal Procedure read with Article 226 of the Constitution. However, the same would not apply where the nature of offence is very serious like rape, murder, robbery, dacoity, cases under Prevention of Corruption Act, cases under Narcotic Drugs and Psychotropic Substances Act and other similar kind of offences in which punishment of life imprisonment or death can be awarded. After considering the facts and circumstances of the present case, we are of the view that learned Single Judge did not commit any error of law in quashing the FIR

after not only the complainant and the Appellant settled their money dispute but also the other alleged sufferers entered into an agreement with the Appellant, and as such, they too settled their claims.

12. As far as composition of offences under Sections 307 and 506 I.P.C. is concerned, the judgment of Narinder Singh and others Vs. State of Punjab and another reported in 2014 (6) SCC 466, has held that though the offence under Section 307 I.P.C. is serious enough, it will not be compoundable under Section 320 Cr.P.C. and it will not oust the powers of the Superior Courts exercising the powers under Section 482 Cr.P.C. to compound the offences, depending upon certain terms and conditions laid thereof.

13. The impact of the powers of the Superior Courts under Section

482 Cr.P.C. have been considered by this Court in a judgment rendered on 28th September, 2018 in C-482 Application No. 1538 of 2018, Pan Singh Rana Vs. State of Uttarakhand and another. This judgment will constitute to be part to this judgment, based on the compounding application of the present C-482 Application. The judgment dated 28th September, 2018 in C-482 Application No. 1538 of 2018, Pan Singh Rana Vs. State of Uttarakhand and another is quoted hereunder :-

"1. A vexed question which arises for consideration before this Court is with regard to the extent of exercising the powers by this Court under Section 482 of the Cr.P.C. so far it relates to the composition of offences punishable under Section 307 I.P.C. as well as the offences under Sections 147, 148, 149, 323, 504 and 325 of Indian Penal Code, 1860 (henceforth to be called as 'I.P.C.'). Though they have been answered by the various judgments rendered by the Hon'ble Apex Court from both the prospective but, they have to be considered together in harmony to arrive at a rationale balance in its applicability. To elucidate its applicability and to the manner, in which, it has to be applied depending upon the circumstances of the each case and the circumstances and factors leading to the commission of offence sought to be compounded. The present C482 Application would be dealing with the offences under Sections 307 and 506 I.P.C. The factual backdrop of this particular case is as under :

2. Initially, an F.I.R. was registered for offences under Sections 285 and 506 I.P.C., read with under Section 27 and u/s 30 of the Arms Act. During the course of investigation, it was found by the Investigating Officer that the offence under Section 285 I.P.C. as alleged in F.I.R. is not made out and Section 307 I.P.C. was added to it. Thus, ultimately charge sheet was submitted for the offences under Sections 307 and 506 I.P.C. This C482 Application was called for from the Registry, on a mention being made by the counsel for the parties. The applicant and respondent No. 2 are present in person and they have been duly identified by their respective counsel. The offences which are being sought to be compounded in the present C482 Application emanates from Case Crime No. 111/2016, registered under Sections 307 & 506 of I.P.C. at Police Station Raipur,

District Dehradun, which was ultimately on submission of the charge sheet, being Charge Sheet No. 69A/16 dated 03.09.2016, was registered as Criminal Case No. 3577/2016 'State vs. Pan Singh Rana', on which, after submission of charge-sheet, the summoning order was issued on 15.09.2016. Consequently, the present C482 Application has been preferred questioning the summoning order dated 15.09.2016, Charge-Sheet No. 69A/16 dated 03.09.2016 as well as the entire criminal proceedings, pending before IInd Additional Chief Judicial Magistrate. The applicant has sought the following relief :

"It is, therefore, Most Respectfully prayed that this Hon'ble Court may graciously be pleased to quash / set-aside charge-sheet dated 29.08.2016 as well as the summoning order dated 05.09.2016 passed by the learned IInd Additional Chief Judicial Magistrate, Dehradun in Criminal Case No. 3577 / 2016 (State Vs. Pan Singh Rana) (Case Crime No. 111/2016), under Sections 307, 506 of I.P.C. registered at Police Station - Raipur, District - Dehradun and further to quash the entire proceedings of the aforesaid Criminal Case No. 3577 / 2016 (State Vs. Pan Singh Rana) (Case Crime No.111/2016), under sections 307, 506 of I.P.C. registered at Police Station - Raipur, District-Dehradun pending in the court of learned IInd Additional Chief Judicial Magistrate, Dehradun, and / or to pass such other and further order which this Hon'ble Court may deem fit and proper in the facts and circumstances of the case."

3. The Compounding Application, which has been preferred jointly by the parties to the present 482 Application by invoking Section 320 of the Code of Criminal Procedure, the applicants submit that the parties to the C-482 Application had settled their dispute outside the Court and the complainant/respondent no. 2, herein, who is present apart from filing affidavit has categorically stated before this Court that he does not want to prosecute the applicant any further for the offences under Sections 307 and 506 of I.P.C. as has been registered against the present applicant by way of criminal case.

4. The argument of the applicant's counsel is that though there had been an accidental fire without there being any deliberate and motivated intention to harm or cause injury, and rather in fact no injury was caused on respondent no. 2 and, as such, as a matter of fact, there are no ingredients available which are required for prosecution under Section 307 of I.P.C., which could be said to have been made out. In the Compounding Application, particularly in paragraph-3, it has been submitted by complainant/respondent no. 2 that he does not want to further prosecute the applicant and a written compromise has been entered into between the parties on 09.09.2018, which is on record duly signed by both the parties, where the terms of the compromise has been settled between them. The relevant part of settlement is quoted hereunder:

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5. Considering the fact that they belong to the same Department and the fact  
that it was an accidental fire at spur of moment due to heated reaction in fact

there was no intention as such to inflict injury on respondent no. 2, and also considering the fact that both the parties unanimously agree that the C482 Application may be allowed.

6. Mr. Lalit Miglani, Brief Holder for the State, vehemently opposes the application for compounding on the ground that the offence under Section 307 of the I.P.C. is not such an offence which could be compounded under Section 320 of the Code of Criminal Procedure. As it is a serious offence having grave implications and social impact and if it is permitted to be compounded, it will give a wrong message to society and may result in augmenting the crime.

7. Principally, there is no dispute with regard to the legal proposition, which has been argued by Mr. Lalit Miglani, learned Brief Holder for the State but, this Court cannot be oblivious of the fact that when there happens to be a joint affidavit filed by the parties, wherein, the complainant himself has submitted that he does not want to prosecute the applicant and, therefore, even then, if the parties to the dispute are forced to face the trial apart from the fact that it will cause uncalled hardship and embarrassment, it will not attain any fruitful conclusion. Besides increasing the apathy on the litigating parties unnecessary imposing a litigation on them, involving fruitless investment of time and money on the parties resulting to futility. This Court is of the view that this Court while exercising its powers under Section 482 of Cr.P.C., it can compound the offences by imposing conditions as laid down by the Hon'ble Apex Court in various judgments, even those which are not compoundable under Section 320 Cr.P.C. The rationale behind the above philosophy is as under :

8. Principally, for the purposes of scrutinizing the ambit of power of the Courts seized with the jurisdiction under Section 482 Cr.P.C. or under Articles 226 / 227 of the Constitution of India, the prime consideration is that as to how the equitable balance in exercise of said powers could be struck down for the purposes of exercising the powers under Section 320 Cr.P.C. which deals with the composition of offences. The classification which has been held out by the Hon'ble Apex Court is that a distinction has to be drawn between the ground of settlement of disputes by the offenders amongst themselves in the terms acceptable by them as compared to the ambit and extent of the power, which has been given to the Court under Section 320 of the Cr.P.C.

9. As a matter of fact, on its precise reading, both the situations, i.e. when a criminal offence is being sought to be settled based on the compromise or where the criminal offences are being sought to be settled by the invocation of Section 320 Cr.P.C., they are definitely not interchangeable with one another because both are materially different as they deal with different parameters and grounds, to be considered, as in the first situation, the Court has to exercise its inherent power under C-482 or under Articles 226 and 227 of Constitution of India which cannot be circumscribed and limited by the stipulations contained under Section 320 of the Cr.P.C. which deals with second concept. Code of Criminal Procedure, so far as it relates to the provisions contained under Section 320 Cr.P.C., it could

very well be said, it only guides the consideration to be borne in mind by the Courts when the Court exercises a power for composition of an offence in an absence of settlement under Section 320 Cr.P.C.. In such a situation, where the Court exercise the power, obviously, the implication of Sub-section (2) of Section 320 and Sub-section (9) of Section 320 of the Cr.P.C. has to be taken into consideration which limits the scope of exercise of powers by the Courts. But, a situation where the criminal disputes, irrespective of its nature of offences, its seriousness is being settled by the terms arrives at, the provisions contained under Section 320 of the Cr.P.C. is not to be strictly made applicable to thwart the settlement between the parties. Only rider which has been attached thereto which requires caution when the Courts are settling the disputes in relation to the offences which are of serious in nature, for example Sections 302, 306, 307 and 376 I.P.C., and such other sexual offences, the Court's will have to consider to attract its inherent power depending upon the material and the nature of the offences which is under consideration to be settled in terms of the compromise. There cannot be any strait jacketed formula for deciding the criminal controversy between the parties based on the settlement as each settlement has its own facts and nature of offence and the circumstances in which it has been committed which will call upon the court to consider pondering on the issue of exercising inherent powers of compounding the offence, and the controversy which is to be decided is based on the attraction of Section 320 Cr.P.C., is altogether different ingredients.

10. The basic ratio and the extent of power which the constitutional Courts have, they are much distinct to the powers which could be exercised by the criminal Courts for the purpose of compounding the offences. The inherent powers of the Courts, particularly, when seized with the powers under Section 482 Cr.P.C. and Articles 226 / 227 of the Constitution of India, it has got a wide plentitude and the same cannot be circumscribed or limited to be exercised so as to meet the ends of justice instead of strictly considering the inherent powers in relation to the powers under Section 320 Cr.P.C. What is necessary to be considered by the Constitutional Courts, while deciding the matter based on the settlement, which is distinct to the composition of scope under Section 320 Cr.P.C. These are the following wider parameters for compounding offences based on the settlement :

1. Whether such a settlement which has been arrived at between the parties for settling the criminal offence would secure the ends of justice.
2. As to whether it would prevent the abuse of process of Court unnecessarily forcing the litigants who has otherwise settled the disputes to undergo the criminal trial.
3. It has to consider its social impact and its affect on the society in an event if offence is compounded.

Hence, the prime consideration for the Court is not only the nature of offence which is being sought to be settled but it also depends upon the considerations

to be made by the Court having regard to the nature of dispute between the offender and the victim and the terms of its settlement, as to whether

it is not ill motivated. The ratio which has also been laid down that the Constitutional Courts while exercising the inherent powers would also have to take into consideration that whether by adopting a strict principle for declining to settle the criminal disputes between the offender and victim on the premise of the offence being of heinous nature, will it ultimately on the conclusion of the trial would have an effective adjudication in a situation where the victim has settled the dispute with the offenders does not derive his prosecution. Thus, the basic intention for settling the heinous offences, which includes the offences under Sections 307, 306 and 376 I.P.C., it should not be forced upon to be continued by denial of settlement on a technical ground of implications of Sub-section (9) of Section 320 and Sub-section (2) of Section 320 of the Cr.P.C. so that ultimately on the culmination of the proceedings of the trial, it may not result to be a proceeding of futility.

11. There is another aspect to be taken care of, as already observed, the High Courts when it exercises the power under Section C-482 Cr.P.C. and under Articles 226 / 227 of the Constitution of India, the High Courts have to apply the rationale approach which is not to be restricted in a concise manner because apart from the fact that it has to ensure that it meets the ends of justice, rather also that High Court has to ensure that such concised interpretation does not lead to the abuse of process. The Court (in particular High Court) will also have to consider that if such type of settlement voluntarily entered between the parties, expressing their unrestricted opinion in terms of the compromise settled down, it has to consider that if the compromise is sacredly entered into, whether it would result into an establishment of harmony and understanding between the offenders and the victim. The only stipulation which has to be borne in mind while the High Court either under Section 482 Cr.P.C., or under Article 226 and 227 of Constitution of India decides a criminal dispute, apart from the fact that it has not be influenced by the restriction of Section 320 Cr.P.C. It would depend upon the nature of offence, the terms of settlement, wider object it aims to achieve and the period at which the settlement is arrived at.

12. The aforesaid ratio as discussed, came up for consideration in the judgment of Hon'ble Apex Court in the case of Gian Singh Vs. State of Punjab and another reported in (2012) 10 SCC 303, wherein, in its para 57, 58 and 61, the Court has held as under :-

"57. Quashing of offence or criminal proceedings on the ground of settlement between an offender and victim is not the same thing as compounding of offence. They are different and not interchangeable. Strictly speaking, the power of compounding of offences given to a court under Section 320 is materially different from the quashing of criminal proceedings by the High Court in exercise of its inherent jurisdiction. In compounding of offences, power of a criminal court is circumscribed by the provisions contained in Section 320 and the court is

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

58. Where the High Court quashes a criminal proceeding having regard to the fact that the dispute between the offender and the victim has been settled although the offences are not compoundable, it does so as in its opinion, continuation of criminal proceedings will be an exercise in futility and justice in the case demands that the dispute between the parties is put to an end and peace is restored; securing the ends of justice being the ultimate guiding factor. No doubt, crimes are acts which have harmful effect on the public and consist in wrongdoing that seriously endangers and threatens the well-being of the society and it is not safe to leave the crime-doer only because he and the victim have settled the dispute amicably or that the victim has been paid compensation, yet certain crimes have been made compoundable in law, with or without the permission of the court. In respect of serious offences like murder, rape, dacoity, etc., or other offences of mental depravity under IPC or offences of moral turpitude under special statutes, like the Prevention of Corruption Act or the offences committed by public servants while

working in that capacity, the settlement between the offender and the victim can have no legal sanction at all. However, certain offences which overwhelmingly and predominantly bear civil flavour having arisen out of civil, mercantile, commercial, financial, partnership or such like transactions or the offences arising out of matrimony, particularly relating to dowry, etc. or the family dispute, where the wrong is basically to the victim and the offender and the victim have settled all disputes between them amicably, irrespective of the fact that such offences have not been made compoundable, the High Court may within the framework of its inherent power, quash the criminal proceeding or criminal complaint or FIR if it is satisfied that on the face of such settlement, there is hardly any likelihood of the offender being convicted and by not quashing the criminal proceedings, justice shall be casualty and ends of justice shall be defeated. The above list is illustrative and not exhaustive. Each case will depend on its own facts and no hard-and-fast category can be prescribed.

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."

13. The Hon'ble Apex Court has held that settlement of criminal disputes by way of a compromise has to be distinctly treated from different prospective and has not to be camouflaged and eclipsed by the provision of Section 320 Cr.P.C. but only rider imposed are the guidelines as framed by the Hon'ble Apex Court. It has to consider as to whether despite the offences being of a serious nature, what was its gravity, whether it was of private nature and such other factors which has been laid down in the said judgment.

14. The intention and purpose of Section 320 of the Cr.P.C. is rather spirited to attain a public policy with regard to the composition of an offence and that is why, it enlists the offences which are compoundable and the manner in which its composition could be made by the courts. But, it does not limit the power of High Courts while exercising its inherent powers. Section 482 of the Cr.P.C. reads as under :

"482. Saving of inherent powers of High Court.- Nothing in this Code shall be

deemed to limit or affect the inherent powers of the High Court to make such orders as may be necessary to give effect to any order under this Code, or to prevent abuse of the process of any Court or otherwise to secure the ends of justice."

Even on a simplicitor reading of provisions contained under Section 482 Cr.P.C., which is quoted hereinabove, on its simple reading of its language and analyzing the legislative intent, it suggests that by virtue of the said provision, the power which has been vested with the Superior Courts, apart from the fact that it intends to prevent the abuse of process, it also aims to achieve the ends of justice and that is why the provision of Section 482 Cr.P.C. has been given an overriding effect to any other provisions contained in the Code because it precedes with the word "nothing in this code". Obviously, it would override under Section 320 Cr.P.C. too.

15. Under normal law of interpretation, by the use of aforesaid words, "nothing in this code", the provision of Section 482 Cr.P.C. would have an effect of being an overriding provision and there is no doubt about the fact that the other provisions of the Criminal Procedure Code will not limit or restrict the inherent powers to be exercised by the High Court. Rather, it could also be said that the powers vested with the High Courts while exercising powers under Section C-482 Cr.P.C. is not an addition to the power but rather it is the power which intends to safeguard the abuse which may occur on account of enforceability of other provisions under the Code, and is spirited to meet the ends of justice in its wider social implication. The Hon'ble Apex Court in the case of *Gian Singh (Supra)*, in its para 53 and 54 has held as under :-

"53. Section 482 of the Code, as its very language suggests, saves the inherent power of the High Court which it has by virtue of it being a superior court to prevent abuse of the process of any court or otherwise to secure the ends of justice. It begins with the words, "nothing in this Code" which means that the provision is an overriding provision. These words leave no manner of doubt that none of the provisions of the Code limits or restricts the inherent power. The guideline for exercise of such power is provided in Section 482 itself i.e. to prevent abuse of the process of any court or otherwise to secure the ends of justice. As has been repeatedly stated that Section 482 confers no new powers on the High Court; it merely safeguards existing inherent powers possessed by the High Court necessary to prevent abuse of the process of any court or to secure the ends of justice. It is equally well settled that the power is not to be resorted to if there is specific provision in the Code for the redress of the grievance of an aggrieved party. It should be exercised very sparingly and it should not be exercised as against the express bar of law engrafted in any other provision of the Code.

54. In different situations, the inherent power may be exercised in different ways to achieve its ultimate objective. Formation of opinion by the High Court before it exercises inherent power under Section 482 on either of the twin objectives, (i)

to prevent abuse of the process of any court, or (ii) to secure the ends of justice, is a sine qua non."

16. The aforesaid preposition is guided on a principle factor that it is judicial obligation on the constitutional Courts which has to be unfettered as aimed by section 482 Cr. P.C. to prevent a public wrong which is a duty casted by implication of law, in the course of administration of justice, so as to prevent unnecessary judicial process dispensation of justice amongst litigating parties. It also constitutes to be having an inherent element of the administration of justice, which becomes an integral part of courts function.

The aforesaid principle is based upon a maxim, called as "quando lex aliquid alicui concedit, conceditur et id sine quo res ipsa esse non protest."

The aforesaid maxim infers that whenever a particular action is to be taken as a matter in the course of discharge of duty, which is required to be done to attain impossible, it attains to perform a real, complete and substantial justice for the purposes for which the Courts are created and possessed with its plenary powers conferred under Section C-482 Cr.P.C.

17. The Five-Judge Bench of Haryana High Court, in the case of Kulwinder Singh Vs. State of Punjab, reported in (2007) 4 CTC 769, was identically called upon to answer the powers of High Court which it can exercise under Section 482 of the Cr.P.C. while considering the composition of offence under Section 320 Cr.P.C. and settling of a dispute on the basis of the compromise arrived between offender and the victim. Apart from laying down the wide ratio pertaining to the nature of offence involved in the said case, it has laid down a broader guidelines to the effect that any offence in relation to a human body, other than murder and culpable homicide, they can be permitted to be compounded when the Courts on the basis of material on record, forms an opinion in terms of the settlement between the parties that such a settlement, when it is fair not ill motivated and voluntary, it could be compounded. In addition to it, there is another test which has to be considered is that such type of terms of settlement for a heinous offence, resulting to bodily injury, each terms of settlement has to satisfy the conscious of the Courts and it has to be seen that it has been fairly arrived at without any duress or oppression being made by the offenders on the victim taking advantage of its autocratic capacity on the victim and also it has to be seen that as to whether the weak victim have not been made vulnerable to the powers of the superiors. This judgment, too, has provided that the only factors to be considered by the High Court under C-482 Cr.P.C. is to prevent the abuse of the process of any Court and to secure the ends of justice, uphold law its intentions, under a given set of circumstances amongst the parties.

18. An issue which crops up for consideration before this Court at this stage to be considered is as to what would be the impact of Sub-section (9) of Section 320 of the Cr.P.C. which absolutely creates a bar that the offences other than the offences referred under Section 320 Cr.P.C. cannot be compounded. What has

been dealt with and the ratio as laid down by the Apex Court in the case of Gian Singh (Supra), since having held that the plenary power conferred on the High Court under C-482 is not circumscribed and restricted by the power under Section 320 of the Cr.P.C. and it would not in any way create an embargo or curtail the powers, as there is no statutory bar in exercise of powers under Section 482 Cr.P.C. The relevant part of the Five-Judges Bench judgment of Punjab and Haryana High Court in the case of Kulwinder Singh (Supra), in its para 23 and 25 has laid down as under:

"23. No embargo, be in the shape of Section 320(9) CrPC, or any other such curtailment, can whittle down the power under Section 482 CrPC.

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25. The only inevitable conclusion from the above discussion is that there is no statutory bar under CrPC which can affect the inherent power of this Court under Section 482. Further, the same cannot be limited to matrimonial cases alone and the court has the wide power to quash the proceedings even in non-compoundable offences notwithstanding the bar under Section 320 CrPC, in order to prevent the abuse of law and to secure the ends of justice. The power under Section 482 CrPC is to be exercised ex debito justitiae to prevent an abuse of process of court. There can neither be an exhaustive list nor the defined parameters to enable a High Court to invoke or exercise its inherent powers. It will always depend upon the facts and circumstances of each case. The power under Section 482 CrPC has no limits. However, the High Court will exercise it sparingly and with utmost care and caution. The exercise of power has to be with circumspection and restraint. The court is a vital and an extraordinary effective instrument to maintain and control social order. The courts play role of paramount importance in achieving peace, harmony and everlasting congeniality in society. Resolution of a dispute by way of a compromise between two warring groups, therefore, should attract the immediate and prompt attention of a court which should endeavour to give full effect to the same unless such compromise is abhorrent to lawful composition of the society or would promote savagery."

19. In view of what has been discussed, it could be said that the power of compounding on one hand under Section 320 Cr.P.C., and quashing of the criminal proceedings, charge sheets, summoning orders or compounding of offence based on settlement in exercise of inherent powers are not to be treated as synonymous to one other but only has to be restricted by the condition precedent to satisfy the criteria of these two different and distinct aspects of law for compounding of an offence so as to render substantial justice. What is to be seen is also important, as to the communality, its harmony of the offence which is to be settled in the exercise of powers in favour of the accused persons. This Court is of the view that if there are sufficient element available that the settlement was fairly entered into without any oppression being exercised as against the victim, and it ultimately results into resolving this discord amongst the parties to a lis, the bar of Sub-section (9) of Section 320 Cr.P.C. for

composition of an offence would not come into play when the Court exercises its inherent powers under C-482, which also legislatively has administratively purpose of enforcing justice.

20. The aspect pertaining to the composition of offence and its ambit and amplitude came up for consideration in the case of Nikhil Merchant Vs. Central Bureau of Investigation and another reported in (2008) 9 SCC 677. Although it was in relation to the offence under Sections 420, 467, 468 and 471 of the I.P.C. read with Section 5 (2) and 5 (1) (d) of the Prevention of Corruption Act, but it has widely laid down the principles of compounding and settlement under Section 320 of the Code of Criminal Procedure. Para 6 of the said judgment reads as under:

"6. Before the High Court, it was urged that since the subject-matter of the dispute had been settled between the appellant and the Bank, it would be unreasonable to continue with the criminal proceedings which had been commenced on a complaint filed on behalf of the Bank having particular regard to Clause 11 of the consent terms by which the parties had withdrawn all claims against each other. It was submitted that the learned Special Judge had erred in rejecting the appellant's prayer for discharge from the criminal case."

21. It has been held in principle to the effect that once subject matter of the dispute, it has been voluntarily settled between the parties, it would be absolutely unreasonable to continue with the criminal proceedings which has commenced on a complaint, though, despite the fact that the offences alleged may prime facie have been made out. The Judgment of Nikhil Merchant (Supra) in its para 8 had more or less reiterated the ratio as laid down by the Hon'ble Apex Court in the judgment of State of Haryana Vs. Bhajan Lal reported in 1992 Supp. (1) SCC 335, which too, has provided the determination of powers of the High Courts under Section C-482 Cr.P.C.. Para 8 of the judgment of Nikhil Merchant (Supra) reads as under :-

"8. Apart from the said decision, reliance was also placed on another decision of this Court in B.S. Joshi v. State of Haryana wherein while dealing with the proceedings under Sections 498-A and 406 of the Penal Code involving matrimonial disputes and offences, this Court held that even though the provisions of Section 320 of the Code of Criminal Procedure would not apply to such offences which are not compoundable, it did not limit or affect the powers under Section 482 CrPC and the powers conferred on the High Courts and the Supreme Court under Articles 226 and 136 of the Constitution of India. Referring to the decision of this Court in State of Haryana v. Bhajan Lal this Court observed that the categories indicated in the said case which warranted exercise of power under Section 482 CrPC were only illustrative and not exhaustive. This Court ultimately held that the High Court in exercise of its inherent powers can quash criminal proceedings or an FIR or complaint and Section 320 CrPC does not limit or affect the power of the High Court under Section 482 of the Code."

22. The High Court in the exercise of its power under Section 482 quashes a criminal proceeding having regard to the fact of each case that dispute between the offender and victim stood settled. 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 amongst parties is restored; securing the ends of justice being the ultimate guiding factor for administration of justice. It is an inevitable conclusion that crimes committed between parties, do have a social effect as it is a crime against a society and it defeats the very fabric of reformatory concept of criminal law of our country, at time composition of offence based on settlement, may not be safe so as to leave crime doer. But still there are exceptions which have been carved out by judicial precedents where wrong is against a private individual. The High Court may within the framework of its inherent power, quash the criminal proceeding or criminal complaint or F.I.R if it is satisfied that on the face of such settlement, there is hardly any likelihood of offender being convicted and by not quashing the criminal proceedings, justice shall be casualty and ends of justice shall be defeated.

23. The Hon'ble Apex Court in the aforesaid case of Gian Singh (Supra) has also dealt with the judgment in the cases of B.S. Joshi and others Vs. State of Haryana and another reported in (2003) 4 SCC 675 and Nikhil Merchant (Supra).

24. The Hon'ble Apex Court in the case of B.S. Joshi (Supra), has held as follows:

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

8. It is, thus, clear that Madhu Limaye's case does not lay down any general proposition limiting power of quashing the criminal proceedings or FIR or complaint as vested in Section 482 of the Code or extra ordinary power under Article 226 of the Constitution of India. We are, therefore, of the view that if for the purpose of securing the ends of justice, quashing of FIR becomes necessary, Section 320 would not be a bar to the exercise of power of quashing. It is, however, a different matter depending upon the facts and circumstances of each case whether to exercise or not such a power.

10. In State of Karnataka v. L. Muniswamy & Ors. [(1977) 2 SCC 699], considering the scope of inherent power of quashing under Section 482, this Court held that in the exercise of this wholesome power, the High Court is entitled to quash proceedings if it comes to the conclusion that ends of justice so

require. It was observed that in a criminal case, the veiled object behind a lame prosecution, the very nature of the material on which the structure of the prosecution rests and the like would justify the High Court in quashing the proceeding in the interest of justice and that the ends of justice are higher than the ends of mere law though justice had got to be administered according to laws made by the legislature. This Court said that the compelling necessity for making these observations is that without a proper realization of the object and purpose of the provision which seeks to save the inherent powers of the High Court to do justice between the State and its subjects, it would be impossible to appreciate the width and contours of that salient jurisdiction. On facts, it was also noticed that there was no reasonable likelihood of the accused being convicted of the offence. What would happen to the trial of the case where the wife does not support the imputations made in the FIR of the type in question. As earlier noticed, now she has filed an affidavit that the FIR was registered at her instance due to temperamental differences and implied imputations. There may be many reasons for not supporting the imputations. It may be either for the reason that she has resolved disputes with her husband and his other family members and as a result thereof she has again started living with her husband with whom she earlier had differences or she has willingly parted company and is living happily on her own or has married someone else on earlier marriage having been dissolved by divorce on consent of parties or fails to support the prosecution on some other similar grounds. In such eventuality, there would almost be no chance of conviction. Would it then be proper to decline to exercise power of quashing on the ground that it would be permitting the parties to compound non-compoundable offences. Answer clearly has to be in 'negative'. It would, however, be a different matter if the High Court on facts declines the prayer for quashing for any valid reasons including lack of bona fides.

11. In *Madhavrao Jiwajirao Scindia & Ors. v. Sambhajirao Chandojirao Angre & Ors.* [(1988) 1 SCC 692], it was held that while exercising inherent power of quashing under Section 482, it is for the High Court to take into consideration any special features which appear in a particular case to consider whether it is expedient and in the interest of justice to permit a prosecution to continue. Where, in the opinion of the Court, chances of an ultimate conviction is bleak and, therefore, no useful purpose is likely to be served by allowing a criminal prosecution to continue, the court may, while taking into consideration the special facts of a case, also quash the proceedings.

15. In view of the above discussion, we hold that the High Court in exercise of its inherent powers can quash criminal proceedings or FIR or complaint and Section 320 of the Code does not limit or affect the powers under Section 482 of the Code."

25. The issue regarding the composition of an offence based on settlement under Section 307 of the I.P.C. was considered by the Hon'ble Apex Court in the case of *Dimpey Gujral and others Vs. Union Territory through Administrator, UT,*

Chandigarh and others reported in (2013) 11 SCC 497. This was a case where the offence which was considered to be compounded was at a stage when after submission of the report under Section 173 of the Cr.P.C., the charges were already framed in relation to the offences as involved therein, being the offences covered by Sections 147, 148, 149, 323, 307, 452 and 506 I.P.C. Widely it involved the offences with which we are concerned partially in the present matter and other connected cases.

Primarily, the said judgment which was dealing with the powers for compounding the offence under Section 307 I.P.C. has derived the ratio and distinction which has been laid down in the case of Gian Singh (Supra) regarding the inherent powers and powers given under statute under Section 320 Cr.P.C. and has held out that even the offences as narrated therein whichever is inclusive of offence under Section 307 IPC, would be compoundable though not covered by Section 320 of the Cr.P.C. Para 8 of the judgment of Dimpey Gujral (Supra) reads as under :-

"8. In the light of the above observations of this Court in Gian Singh, we feel that this is a case where the continuation of criminal proceedings would tantamount to abuse of process of law because the alleged offences are not heinous offences showing extreme depravity nor are they against the society. They are offences of a personal nature and burying them would bring about peace and amity between the two sides. In the circumstances of the case, FIR No. 163 dated 26-10-2006 registered under Sections 147, 148, 149, 323, 307, 452 and 506 IPC at Police Station Sector 3, Chandigarh and all consequential proceedings arising therefrom including the final report presented under Section 173 of the Code and charges framed by the trial court are hereby quashed."

26. It was arising out of the judgment rendered by the Punjab and Haryana High Court, wherein, while exercising the jurisdiction under Section C-482 Cr.P.C., the High Court has declined to quash the F.I.R. under Sections 307, 324 and 323/34 I.P.C., based on the compromise entered between the victim and the offender and the reason for refusal which has been recorded by the Punjab and Haryana High Court was that the offence being heinous in nature would fall to be an offence not compoundable under Section 320 of the Cr.P.C and bar of Sub-section (9) of Section 320 of the Cr.P.C. come into play as it has an element of being a social offence and also the stage at which, the settlement for the offences aforesaid was under consideration, was an issue before the High Court was the stage when the investigation stood completed, challan has been presented in the Court and the accused were charged and the matter was pending before the Trial Court. It was at that stage that in C-482 proceedings by way of criminal petition, a prayer was made for quashing of the F.I.R.. In the said case, settlement thus arrived, following assertions were made :-

1. Complainant has specially made a statement that he has no intention to prosecute the offender.

2. The situation where the complainant agrees that he has got no objection for quashing of the proceedings.

3. Where the offenders and the victim have undertaken in writing that in writing or by way of affidavit that they do not intent to undertake and indulge in any criminal offences against one another.

4. Based on the criminal offences alleged, they do not want to litigate any further.

5. As a consequence of such settlement in writing or by way of affidavit, when it results into futile exercise on culmination of the criminal proceedings and,

6. Lastly, when in an event of declining to accept such settlement covering the aforesaid condition would result into unnecessary wastage of time of the Court as well as the Investigating Agency and would cause unnecessary hardship and wastage of time to the parties to the dispute.

27. These are the wider governing factors, which have to be borne in mind by the High Court when even serious offence like that of 307 IPC, which happens to be in the instant case, is sought to be compounded. The High Courts before whom such an application for composition of offence comes for consideration, based on the settlement, the High Court is not denuded of its powers to consider its propriety while exercising its inherent powers under Section 482 Cr.P.C., which will not be eclipsed and overridden by the restriction of Sub-section (9) of Section 320 of the Cr.P.C. because Section 320 itself as already observed above, it will not in view of language used under Section 482 Cr.P.C. which has an overriding effect, derived power of the Court to decide application for heinous offences also as inherent power is independent to the circumstances for compounding under Section 320 Cr.P.C. Because the experience do not rule out a situation where on most of the occasions, the criminal act is taken on account of a spur of moment, on account of verbal fighting, and on account of a heated discussion and moment, which are to be considered while considering the application for composition.

28. The Hon'ble Apex Court in the case of Narendra Singh (Supra), has laid down the wider principles and circumstances as to how the power to compromise an offence should be exercised as there happens to be a subtle distinction between the composition of offence exercising inherent power and the power which is given to the Court under Section 320 of the Cr.P.C. Para 9 of the judgment of Narendra Singh (Supra) reads as under :-

"9. At the same time, one has to keep in mind the subtle distinction between the power of compounding of offences given to the court under Section 320 of the Code and quashing of criminal proceedings by the High Court in exercise of its inherent jurisdiction conferred upon it under Section 482 of the Code. Once it is found that compounding is permissible only if a particular offence is covered by the provisions of Section 320 of the Code and the court in such cases is guided solitarily and squarely by the compromise between the parties, insofar as power

of quashing under Section 482 of the Code is concerned, it is guided by the material on record as to whether the ends of justice would justify such exercise of power, although the ultimate consequence may be acquittal or dismissal of indictment."

29. The normal philosophy and the psychology with courts which persists when an offence of such nature comes into consideration before the Court of law pertaining to a bodily harm being inflicted, whereas, in the instant case which happens to be contended to be an attempt to take life of another person under Section 307 of I.P.C. It becomes imperative no doubt that heinous crimes too have to be treated as a crime against the society and not against any individual. But, there is a distinction while giving an offence a flavor of a social crime as in relation to the personal crime covered under Section 307 I.P.C. For such type of offences, the basic underlining principle for classifying it to be a public crime is to act as a deterrent for the people at large and hence, in para 17 of the Narendra Singh Case (Supra), it has been dealt with as under :-

"17. We would like to expand this principle in some more detail. We find, in practice and in reality, after recording the conviction and while awarding the sentence/punishment the court is generally governed by any or all or combination of the aforesaid factors. Sometimes, it is the deterrence theory which prevails in the minds of the court, particularly in those cases where the crimes committed are heinous in nature or depict depravity, or lack morality. At times it is to satisfy the element of "emotion" in law and retribution/vengeance becomes the guiding factor. In any case, it cannot be denied that the purpose of punishment by law is deterrence, constrained by considerations of justice. What, then, is the role of mercy, forgiveness and compassion in law? These are by no means comfortable questions and even the answers may not be comforting. There may be certain cases which are too obvious, namely, cases involving heinous crime with element of criminality against the society and not parties inter se. In such cases, the deterrence as purpose of punishment becomes paramount and even if the victim or his relatives have shown the virtue and gentility, agreeing to forgive the culprit, compassion of that private party would not move the court in accepting the same as larger and more important public policy of showing the iron hand of law to the wrongdoers, to reduce the commission of such offences, is more important. Cases of murder, rape, or other sexual offences, etc. would clearly fall in this category. After all, justice requires long-term vision. On the other hand, there may be offences falling in the category where the "correctional" objective of criminal law would have to be given more weightage in contrast with "deterrence" philosophy. Punishment, whatever else may be, must be fair and conducive to good rather than further evil. If in a particular case the court is of the opinion that the settlement between the parties would lead to more good; better relations between them; would prevent further occurrence of such encounters between the parties, it may hold settlement to be on a better pedestal. It is a delicate balance between the two conflicting interests which is to be achieved by the court after examining all

these parameters and then deciding as to which course of action it should take in a particular case."

30. About the nature of offence as contemplated under Section 307 I.P.C. which is normally dealt with as to be a public offence, this aspect was considered in *Dimpey Gujral Case (Supra)*, which, in turn, while considering the ratio rendered in *Gian Singh case (Supra)*, has held that if the three ratio are read harmoniously, it has been provided that the interpretation given to the offence under Section 307 IPC may be that they are social offence and it ought to be made punishable so as to make deterrent for offenders at large but simultaneously while referring to the said judgment of *Dimpey Gujral (Supra)*, as well as *Narinder Singh (Supra)* has thus held that even at times, looking to the circumstances, which led to commission of offence the nature of injury inflicted, the circumstances of commission of offence, they do at times make an important consideration for compounding offence based on settlement the offences under Section 307 IPC also as to be a personal offence and not an offence against the society. That is why in *Narinder Singh (Supra)* case, the Hon'ble Apex Court while drawing a distinction as against the ratio laid down in the case of *Rajendra Harakchand Bhandari Vs. State of Maharashtra* reported in (2011) 13 SCC 311 and in the case of *Shiji Alias Pappu and others Vs. Radhika and another*, reported in (2011) 10 SCC 705 and in the case of *State of Rajasthan Vs. Shambhu Kewat and another* reported in (2014) 4 SCC 149, where these judgments have invariably held that the offence under Section 307 I.P.C. since being non-compoundable offence covered by the Sub-section (9) of Section 320 Cr.P.C would not be compoundable. Considering the ratio of making the offence as not compoundable, irrespective of the settlement arrived at between the parties, the Hon'ble Apex Court in *Narinder Singh (Supra)* has drawn a distinction from the aforesaid judgment and has deviated to lay down the ratio that even the offence under Section 307 I.P.C., though heinous in nature, though at times it may be a social offence, but, the same would still be dependent upon its own facts and circumstances which is the prerogative of the Court to consider in each case when the same is being decided on the basis of the settlement while exercising its plenary powers under Section 482 Cr.P.C. or under Article 226 /227 of the Constitution of India. It would be apt to refer to para 22 and 23 of the judgment of *Narendra Singh (Supra)* case.

"22. Thus, we find that in certain circumstances, this Court has approved the quashing of proceedings under Section 307 IPC whereas in some other cases, it is held that as the offence is of serious nature such proceedings cannot be quashed. Though in each of the aforesaid cases the view taken by this Court may be justified on its own facts, at the same time this Court owes an explanation as to why two different approaches are adopted in various cases. The law declared by this Court in the form of judgments becomes binding precedent for the High Courts and the subordinate courts, to follow under Article 141 of the Constitution of India. *Stare decisis* is the fundamental principle of judicial decision-making which requires "certainty" too in law so that in a given set of facts the course of

action which law shall take is discernible and predictable. Unless that is achieved, the very doctrine of stare decisis will lose its significance. The related objective of the doctrine of stare decisis is to put a curb on the personal preferences and priors of individual Judges. In a way, it achieves equality of treatment as well, inasmuch as two different persons faced with similar circumstances would be given identical treatment at the hands of law. It has, therefore, support from the human sense of justice as well. The force of precedent in the law is heightened, in the words of Karl Llewellyn, by "that curious, almost universal sense of justice which urges that all men are to be treated alike in like circumstances".

23. As there is a close relation between equality and justice, it should be clearly discernible as to how the two prosecutions under Section 307 IPC are different in nature and therefore are given different

treatment. With this ideal objective in mind, we are proceeding to discuss the subject at length. It is for this reason we deem it appropriate to lay down some distinct, definite and clear guidelines which can be kept in mind by the High Courts to take a view as to under what circumstances it should accept the settlement between the parties and quash the proceedings and under what circumstances it should refrain from doing so. We make it clear that though there would be a general discussion in this behalf as well, the matter is examined in the context of the offences under Section 307 IPC."

31. On a wider principle, the aspects which are to be considered while dealing with the composition of offence is to be based on the terms of settlement, its spirit of amicable settlement and also the intention of the parties to bury their hatchet to live in harmony. This has also to be considered with regard to the advantageous or disadvantageous situation of the parties, their social status, their mental status, to understand their well being, the circumstance under which the offence has been committed and basically the intention of such settlement to establish harmony and restoring friendly ties between the offenders and it does not intent to defeat the process of law and the victim. The issue which crops as to when the party is in such a situation when they inspires to settle their score, whether the law and the Court should create a hurdle by giving its immature opinion to the settlement? Thus, Narinder Singh case (Supra), in para 26 has laid down the circumstances for deciding the dispute, based on the settlement in relation to the heinous crime. Para 26 reads as under :

"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 IPC as well. Therefore, only because FIR/charge-sheet incorporates the provision of Section 307 IPC 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 IPC, 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 IPC were unnecessarily included in the charge-sheet, the Court can accept the plea of compounding of the offence based on settlement between the parties."

32. However, the said judgment has created a specific bar that when such an agreement for settling the dispute of a heinous crime is based on the compromise which is being sought to be arrived at, at an appellate stage, when the accused has already been held guilty, no such power of composition of offence at the appellate stage could be made. Hence, while concluding, the Hon'ble Apex Court in the case of Narinder Singh (Supra), in its para 29 has laid down the certain guiding factors to be adhered to for dealing with the composition based on settlement.

"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 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.

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." On considering the aforesaid judgment and the ratio as propounded by his Lordships as a matter of fact even the Hon'ble Apex Court has laid down that it would not be safe to hold that there is an absolute bar of compounding the heinous offence, but, only precautions are the guidelines which have been laid down by the Hon'ble Apex Court in para 29 of the Narinder Singh (Supra) case.

33. Often, whenever the question comes as to whether an offence is compoundable or not and whether the High Courts, which exercising its powers under Section C-482 Cr.P.C. or under Articles 226 / 227 of the Constitution of India, is seized with the settlement, what would be the extent of its power, it has to consider it from the view point with regard to nature of offence, which is being sought to be compounded, if it happens to be of personal nature, for example, that of matrimonial dispute, financial transactions, company matters or matter pertaining to the Negotiable Instruments Act, the composition under Section 320 Cr.P.C. or based on a settlement, has to be entered into keeping in mind the personal nature of dispute as the settlement will not at all affect a public policy, rather it would result into the settlement of personal dispute. This is the broader ratio as laid down by the Hon'ble Apex Court in the case of Madan Mohan Abbot Vs. State of Punjab reported in (2008) 4 SCC 582. Para 5 of the said judgment has dealt with the aforesaid ratio, the same is quoted hereunder :

"5. It is on the basis of this compromise that the application was filed in the High Court for quashing of proceedings which has been dismissed by the impugned order. We notice from a reading of the FIR and the other documents on record that the dispute was purely a personal one between two contesting parties and that it arose out of extensive business dealings between them and that there was absolutely no public policy involved in the nature of the allegations made against the accused. We are, therefore, of the opinion that no useful purpose would be served in continuing with the proceedings in the light of the compromise and also in the light of the fact that the complainant has on 11-1-2004 passed away and the possibility of a conviction being recorded has thus to be ruled out."

It is rather postulated that whenever the Court comes to the conclusion that the offence has the private element, it has to liberally exercise its power while

settling the dispute based on the compromise.

34. A similar preposition pertaining to the composition of an offence under Section 482 Cr.P.C. and Article 226 / 227 of the Constitution of India, has been laid down by the Hon'ble Apex Court in the case of Gold Quest International Private Limited Vs. State of Tamil Nadu and others reported in (2014) 15 SCC 235. Para 8 of the said judgment reads as under :-

"8. In view of the principle laid down by this Court in the aforesaid cases, we are of the view that in the disputes which are substantially matrimonial in nature, or the civil property disputes with criminal facets, if the parties have entered into settlement, and it has become clear that there are no chances of conviction, there is no illegality in quashing the proceedings under Section 482 CrPC read with Article 226 of the Constitution. However, the same would not apply where the nature of offence is very serious like rape, murder, robbery, dacoity, cases under the Prevention of Corruption Act, cases under the Narcotic Drugs and Psychotropic Substances Act and other similar kind of offences in which punishment of life imprisonment or death can be awarded. After considering the facts and circumstances of the present case, we are of the view that the learned Single Judge did not commit any error of law in quashing the FIR after not only the complainant and the appellant settled their money dispute but also the other alleged sufferers entered into an agreement with the appellant, and as such, they too settled their claims."

The aforesaid judgment of Gold Quest International (Supra) has been rendered considering the principle laid down by the Hon'ble Apex Court in Gian Singh as well as in Nikhil Merchant (Supra) cases.

35. The wider amplitude of powers which the High Courts have held are not circumscribed to limit its plenary powers. The Hon'ble Apex Court in the case of State of Haryana and others Vs. Bhajan Lal and others reported in 1992, Supl (1) SCC 335, while considering the contention in its para 102 has classified the situation where and the circumstances under which the constitutional Courts can exercise its powers, has held in para 102 as under :-

"102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not

prima facie constitute any offence or make out a case against the accused.

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

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

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

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

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

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

36. An altogether a new aspect has been considered and propounded by the Hon'ble Apex Court in the matter of Pepsi Foods Ltd. and another Vs. Special Judicial Magistrate and others reported in (1998) 5 SCC 749. The Apex Court, while dealing with the powers of the High Court in the matters of compounding the offences, has laid down that the exercise of powers of judicial review conferred to the High Courts is not only to ensure administration of justice, but it is also of a judicial nature, which intends to prevent the abuse of the process by the inferior courts and also to see that stream of justice remains clean and pure and attains the social objective. To attain the wider principle as considered by the Apex Court, it has been held that the powers of the High Court is not limited but only thing is that while exercising the same, the Court has to be extremely cautious and due care has to be taken and that is why it has been laid down that the powers under Section 482 Cr.P.C. which has been given an overriding power to the provision of the Code of Criminal Procedure would be an inflexible power and could be exercised depending upon the facts and circumstances of each case.

In the aforesaid judgment, it has been observed that the guidelines in terms therein, where the Court while exercising the powers under Section 482 Cr.P.C. is

inflexible and not laying down the rigid formula to be followed while exercising its jurisdiction. Para 22, 26 and 28 of the judgment of Pepsi Foods Ltd. (Supra) read as under :-

"22. It is settled that the High Court can exercise its power of judicial review in criminal matters. In State of Haryana v. Bhajan Lal this Court examined the extraordinary power under Article 226 of the Constitution and also the inherent powers under Section 482 of the Code which it said could be exercised by the High Court either to prevent abuse of the process of any court or otherwise to secure the ends of justice. While laying down certain guidelines where the court will exercise jurisdiction under these provisions, it was also stated that these guidelines could not be inflexible or laying rigid formulae to be followed by the courts. Exercise of such power would depend upon the facts and circumstances of each case but with the sole purpose to prevent abuse of the process of any court or otherwise to secure the ends of justice. One of such guidelines is where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused. Under Article 227 the power of superintendence by the High Court is not only of administrative nature but is also of judicial nature. This article confers vast powers on the High Court to prevent the abuse of the process of law by the inferior courts and to see that the stream of administration of justice remains clean and pure. The power conferred on the High Court under Articles 226 and 227 of the Constitution and under Section 482 of the Code have no limits but more the power more due care and caution is to be exercised while invoking these powers. When the exercise of powers could be under Article 227 or Section 482 of the Code it may not always be necessary to invoke the provisions of Article 226. Some of the decisions of this Court laying down principles for the exercise of powers by the High Court under Articles 226 and 227 may be referred to.

26. Nomenclature under which petition is filed is not quite relevant and that does not debar the court from exercising its jurisdiction which otherwise it possesses unless there is special procedure prescribed which procedure is mandatory. If in a case like the present one the court finds that the appellants could not invoke its jurisdiction under Article 226, the court can certainly treat the petition as one under Article 227 or Section 482 of the Code. It may not however, be lost sight of that provisions exist in the Code of revision and appeal but some time for immediate relief Section 482 of the Code or Article 227 may have to be resorted to for correcting some grave errors that might be committed by the subordinate courts. The present petition though filed in the High Court as one under Articles 226 and 227 could well be treated under Article 227 of the Constitution.

28. Summoning of an accused in a criminal case is a serious matter. Criminal law cannot be set into motion as a matter of course. It is not that the complainant has to bring only two witnesses to support his allegations in the complaint to have the criminal law set into motion. The order of the Magistrate summoning

the accused must reflect that he has applied his mind to the facts of the case and the law applicable thereto. He has to examine the nature of allegations made in the complaint and the evidence both oral and documentary in support thereof and would that be sufficient for the complainant to succeed in bringing charge home to the accused. It is not that the Magistrate is a silent spectator at the time of recording of preliminary evidence before summoning of the accused. The Magistrate has to carefully scrutinise the evidence brought on record and may even himself put questions to the complainant and his witnesses to elicit answers to find out the truthfulness of the allegations or otherwise and then examine if any offence is prima facie committed by all or any of the accused."

37. In the matter of Madhu Limaye Vs. State of Maharashtra reported in (1977) 4 SCC 551, the Court has laid down that Section 320 Cr.P.C. would not create a bar for the exercise of powers by the High Courts for quashing of a proceedings, summoning order or the charge sheet without being affected by the powers under Section 320 Cr.P.C. and it would exclusively be governed by the factors depending upon the circumstances of each case.

38. A harmonious interpretation can also be discerned from the ratio laid down by the Apex Court in the judgment of B.S. Joshi and others Vs. State of Haryana and another reported in (2003) 4 SCC 675. Para 5, 6, 8 and 15 of the said judgment reads as under

"5. After reproducing the seven categories of cases as given in para 102 of Bhajan Lal case the High Court has held that the parameters, principles and guidelines for quashing of complaints, first information report and criminal proceedings have been settled in terms thereof and has concluded therefrom that the instant case does not fall in any of the said categories. It is quite clear that the High Court has lost sight of the earlier part of para 102 which made it abundantly clear that the said categories of cases were being given by way of illustration. Neither were the categories of cases given exhaustive nor could it be so. Before giving those categories, it was said in Bhajan Lal case that: (SCC p. 378, para 102)

"102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised."

6. In Pepsi Foods Ltd. v. Special Judicial Magistrate this Court with reference to Bhajan Lal case observed that the guidelines laid therein as to where the court

will exercise jurisdiction under Section 482 of the Code could not be inflexible or laying rigid formulae to be followed by the courts. Exercise of such power would depend upon the facts and circumstances of each case but with the sole purpose to prevent abuse of the process of any court or otherwise to secure the ends of justice. It is well settled that these powers have no limits. Of course, where there is more power, it becomes necessary to exercise utmost care and caution while invoking such powers.

8. It is, thus, clear that Madhu Limaye case does not lay down any general proposition limiting power of quashing the criminal proceedings or FIR or complaint as vested in Section 482 of the Code or extraordinary power under Article 226 of the Constitution of India. We are, therefore, of the view that if for the purpose of securing the ends of justice, quashing of FIR becomes necessary, Section 320 would not be a bar to the exercise of power of quashing. It is, however, a different matter depending upon the facts and circumstances of each case whether to exercise or not such a power.

15. In view of the above discussion, we hold that the High Court in exercise of its inherent powers can quash criminal proceedings or FIR or complaint and Section 320 of the Code does not limit or affect the powers under Section 482 of the Code."

Hence, on considering the aforesaid prepositions, it can be safely concluded that in view of the language used in the provisions contained under Section 482 Cr.P.C., which confers the inherent power to the High Courts, cannot be limited by the provisions contained under Section 320 Cr.P.C. as they being the plenary power and independent to Section 320 Cr.P.C and will not be eclipsed by the restrictions of sub-Section (9) of Section 320 of the Cr.P.C. Hence, the composition for the heinous offence and, in particularly, the case at hand in relation to the offence under Section 307 I.P.C., it would depend upon the factors as determined by para 29 of the Naarinder Singh (Supra) case.

39. The Coordinate Bench of this Court had also in the case of Criminal Misc. Application 1253 of 2012, Dilbagh Singh Vs. State of Uttarakhand has also held that the offences under Sections 147, 148, 149, 323, 324, 325, 427, 452, 504, 506 and 307 I.P.C. would be compoundable. An identical view has been expressed by the Coordinate Bench of Allahabad High Court in a judgment rendered in Application under Section C482 No. 31751 of 2015, Rajendra Sharma and 18 others Vs. State of U.P. and another, wherein, the Court has held as under :-

"A perusal of the aforesaid would indicate that this Court is competent to quash a criminal proceeding or FIR or complaint in exercise of its inherent jurisdiction, which is distinct and different from the power to compound an offence under Section 320 of the Code. The Apex Court went on to hold that the inherent powers are of wide amplitude with the no statutory limitations, but the same is to be exercised either to secure the ends of justice or to prevent the abuse of the

process of any court. Thus where the offender and the victim have settled their dispute in respect of an offence, which is neither heinous and serious, nor involved any mental depravity relating to an offence like murder, rape, dacoity etc, such proceedings can be quashed on the basis of settlement, but the offence should be private in nature and should not have any societal impact, such as an offence under the Prevention of Corruption Act or an offence involving public servants in discharge of duties etc. But criminal cases having a predominantly civil flavour, such as commercial, financial mercantile civil partnership etc. or family disputes are such instances, where prosecution could be quashed subject to a settlement."

40. Even recently, the Hon'ble Apex Court in the case of Parbatbhai Aahir Alias Parbatbhai Bhimsinhbhai Karmur and others Vs. State of Gujarat and another reported in (2017) 9 SCC 641 was dealing with the powers of the Superior Courts under Section 482 Cr.P.C.. The said judgment too places reliance on the ratio as propounded in Gian Singh (Supra). The judgment of Parbatbhai Aahir (Supra) could widely be summarized as under :-

(1) Section 482 Cr.P.C. 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 recognizes 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 Cr.P.C. 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 Cr.P.C., 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 plentitude, it has to be exercised to secure the ends of justice and to prevent an abuse of the process of any Court.

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

(6) In the exercise of power under Section 482 Cr.P.C. 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 be appropriately be quashed though the victim or the family of the victim have settled the dispute. Such offences are 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) 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.

(8) 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. Economic offences involving the financial and economic well-being of the State have implications which lie beyond the domain of a mere dispute between the 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.

41. In view of discussions and reasons enumerated, the conclusion which could be safely deduced is that the powers under Section 320 Cr.P.C. of compounding of offences within its ambit will have to read distinct to the powers vested with superior Courts under Section 482 Cr.P.C. and Writ Courts under Articles 226 and 227 of the Constitution of India and they cannot be limited and circumscribed, as they carry a distinct and wide powers of exercising the inherent powers to eradicate the abuse of process of law. Thus, even heinous offences which are not compoundable under Section 320 Cr.P.C., which includes offences under Sections 147, 148 and 307 I.P.C. and so forth can be compounded but with the frame work of guidelines laid down by the Hon'ble Apex Court and, in particular, testing each case based on its own factual merits. It could also be concluded by saying that concept of compounding also achieves wider social objectives to bring peace amongst people, increasing tranquility and saving the litigants from facing long drawn judicial proceedings, which would otherwise on its conclusion will not have any legal conclusion.

42. In view of ratio as laid by the Hon'ble Apex Court in the catena of decisions cited hereinabove, Compounding Application No. 10867 of 2018, filed by the parties will stand allowed and the entire proceedings of Criminal Case No. 3577 of 2016 'State Vs. Pan Singh Rana' arising out of Case Crime No. 111 of 2016 under Sections 307 and 506 of I.P.C. at Police Station Kotwali Raipur, District Dehradun, which is presently pending before the IInd Chief Judicial Magistrate, Dehradun stands quashed.

43. Consequently, this C-482 Application under Section 482 of Cr.P.C. would also

stand allowed. There would be no order as to costs."

14. In view of ratio laid by the Hon'ble Apex Court in the judgments cited hereinabove and the judgment rendered by this Court in the case of Pan Singh Rana (Supra), the Compounding Application filed by the parties will stand allowed. The proceedings of Criminal Case No. 865 of 2018 "State Vs. Amit Rod" under Sections 147, 148, 323, 307, 427, 504 and 506 I.P.C., Police Station Kotwali Roorkee, District Haridwar, presently pending before the Additional Chief Magistrate Roorkee, District Haridwar is hereby quashed.

15. Consequently, this application under Section 482 Cr.P.C. would also stand allowed. There would be no order as to cost.