
(2019) 04 MAN CK 0010
In the Manipur High Court
Case No : Criminal Petition No.1 Of 2019

Barkha Jain And Others

APPELLANT

Vs

State Of Manipur

RESPONDENT

Date of Decision : 16-04-2019

Acts Referred:

Constitution Of India, 1950 — Article 227
Code Of Criminal Procedure, 1973 — Section 320, 482
Indian Penal Code, 1860 — Section 34, 307, 325, 406, 498A
Hindu Marriage Act, 1955 — Section 13B
Dowry Prohibition Act, 1961 — Section 4

Citation : (2019) 04 MAN CK 0010

Hon'ble Judges : M.V. Muralidaran, J

Bench : Single Bench

Advocate : A. Bimol, A. Golly, Y. Ashang

Final Decision : Allowed

Judgement

MV Muralidaran, J

1. This Criminal Petition has been filed by the petitioners under Section 482 of Cr.P.C. seeking to quash/compound the entire proceedings and trial of Criminal (P) Case No.174 of 2017 on the file of the Chief Judicial Magistrate, Imphal West, Manipur.
2. The first petitioner is the complainant and the second petitioner is the accused in Criminal (P) Case No.174 of 2017 for the offence under Section 498-A/325 of I.P.C.
3. The petitioners have filed the present petition seeking to quash/compound the entire proceedings and trial in Criminal (P) Case No.174 of 2017 alleging that by a registered Deed of Agreement dated 19.09.2018 entered into between them and their parents, the disputes and differences were amicably settled. According to the petitioners, in view of the terms and conditions of the Deed of Agreement, the petitioners have either withdrawn or not pressed or closed all the cases filed

against one another by the concerned Courts except (i) Registration No.221 of 2018 (FIR No.201/2018 of Paltan Bazar Police Station) on the file of 5-SDJM No.1, Kamrup(M), Guwahati; (ii) Criminal (P) Case No.174 of 2017 on the file of CJM, Imphal West and (iii) Criminal (C) Case No.78 of 2017 on the file of CJM, Imphal West and the petitioners are taking steps to quash the proceedings and trial of FIR No.201 of 2018 of Paltan Bazar Police Station by filing petition before the High Court, Guwahati.

4. According to the petitioners, on 20.08.2018, the learned Chief Judicial Magistrate, Imphal West, ordered framing charges against the second petitioner in Criminal (P) Case No.174 of 2017 and accordingly, charges under Section 498-A were framed against him and the case was adjourned to 16.01.2019 for examination of witnesses. The petitioners stated that in terms of the Deed of Agreement dated 19.09.2018, the petitioners have already filed joint application dated 26.09.2018 under Section 13-B of the Hindu Marriage Act, 1955 for dissolution of the marriage by a decree of divorce on mutual consent before the Family Court, Manipur at Lamphelpat, Imphal. The said petition was taken up by the Family Court in Mat. (Div) Suit No.120 of 2018 and the same is pending subject to withdrawal or compounding of all other pending cases of Imphal and Guwahati Courts. Hence, the petitioners have filed the present petition seeking to quash/compound the proceedings and trial of Criminal (P) Case No.174 of 2017.

5. The learned counsel for the petitioners submitted that the jurisdiction of this Court deserves to be exercised to quash the entire proceedings in Criminal (P) Case No.174 of 2017 in view of the amicable settlement of the disputes and/or issues between the petitioners by way of registered Deed of Agreement dated 19.09.2018 and also in the larger interest of petitioners. The learned counsel further submitted that when settlement takes place between the parties and both the parties filed joint petition seeking to quash the proceedings, then the High Court exercising its power should quash the proceedings. To fortify his submissions, the learned counsel for the petitioners relied upon the following decisions:

(1) B.S. Joshi and others v. State of Haryana and another, reported in (2003) 4 SCC 675.

(2) Gian Singh v. State of Punjab and another, reported in 2012 7 Supreme 1 : (2012) 10 SCC 303.

6. On the other hand, the learned Government Advocate submitted that since Criminal (P) Case No.174 of 2017 is ripe for trial and since the offence involved in the case on hand is not compoundable, this petition seeking to quash the proceedings is not maintainable and, therefore, prayed for dismissal of the petition.

7. I have considered the submissions made by the learned counsel appearing on either side and also perused the materials available on record.

8. Criminal (P) Case 174 of 2017 has been initiated against the second petitioner on the strength of the complaint lodged by the first petitioner in FIR No.213(12)2016 of City Police under Section 498-A IPC.

9. The prosecution story is on 07.6.2015, marriage between the petitioners was solemnized and few days after the marriage, the second petitioner started verbally abusing and harassing her saying that enough dowry was not given by her family. Further, every night the second petitioner used to come home drunk and abuse the first petitioner physically and sexually using profane and abusive languages, torturing her physically and mentally to compel her to jump from the balcony of their building or from the running car.

Further, the prosecution story is that the mother of the second petitioner also harassed the first petitioner. Based on the complaint lodged by the first petitioner, the City Police registered a case against the second petitioner and charge sheeted under Section 498-A IPC.

11. The jurisdictional Magistrate took cognizance of the offence under Section 498-A IPC and issued process against the second petitioner. Pending case, the first petitioner requested the jurisdictional Magistrate to array the mother of the second petitioner as an accused and also prayed for including the offence under Section 325 IPC and Section 4 of Dowry Prohibition Act. By an order dated 20.08.2018, the learned Chief Judicial Magistrate, declined to array the mother of the second petitioner as an accused and also declined to frame charges for the offences under Section 325 IPC and Section 4 of the Dowry Prohibition Act.

12. Now, the grievance of the petitioners is that after framing of charge in the instant case, both the petitioners and their parents (second petitioner and his parents as "first parties" AND the first petitioner and her parents as "second parties") entered into Deed of Agreement settling their disputes, in and by which, both of them have agreed to withdraw the cases. It is seen that the particulars of pending cases have been tabulated in the said Agreement. The case on hand has been tabulated as Serial No.8 in the said Agreement. For proper appreciation, some of the terms and conditions of the Agreement are extracted below:

"AND WHEREAS both the parties out of their free will and volition have settled all their disputes, differences and grievances amicably on or amongst the following terms and conditions agreed below.

A. That, both the parties shall co-operate with each other in withdrawing all the cases and in respect of necessity may also move the higher Courts for quashing of all other non-compoundable cases pending against each other, either at Imphal or at Guwahati, and the second parties are bound to be present on all the dates given by the Courts.

.....

C. That, the parties shall not raise any claim of any nature whatsoever against each other or against the parents of each other, brothers, sisters and other

relatives in respect of any dispute and/or differences together with the expenses incurred therein on the solemnization of their marriage and the gifts exchanged, maintenance, alimony. Stridhan and all gifts given to each other or relatives etc.

.....

E. That, on or after the date of signing of this instrument, the parties hereto do not have any grievance left against each other and the second parties are bound to be present on all dates given by the Courts for quashing and in view of the same, they have further undertaken that they shall not level any allegations against each other or each other parents/relatives or act in a manner so as to harm and tarnish the reputation and image of the parties, in the family or the society at large.

F. That, the SECOND PARTIES do as not have any claim left pending against the first PARTIES either on account of maintenance (past, present and future), permanent alimony, Stridhan or any property of gifts of any other nature whatsoever. Both the parties do not have any grievance against each other and they have duly and peacefully settled their disputes to the best of their satisfaction. Similarly, the FIRST PARTIES also does not have any claim and/or any grievance against the SECOND PARTIES and shall not claim anything from the SECOND PARTIES in respect of the subject matter of the instant agreement and/or the cases as mentioned in Clause A of the instant agreement.

G. That, both the FIRST PARTIES No.(i) and the SECOND PARTIES No.(i) have agreed to dissolve their marriage after quashing the cril cases by way of mutual consent and parties shall appear before the Family Court, Imphal West, Manipur in respect of Mat (Div) Suit No.119 of Imphal and Mat (Div) Suit No.158 of 2018 and its connected civil and criminal Misc. cases.

H. That, the parties have consented to this Deed of Agreement out of their own sweet will, and without any influence or duress or threat and they are bound by the terms and conditions of this agreement."

13. By relying upon the terms and conditions of the Deed of Agreement dated 19.09.2018, the petitioners, who are husband and wife, seek to quash/compound the proceedings and trial of Criminal (P) Case No.174 of 2017.

14. Admittedly, Section 498-A IPC is a non-compoundable offence. Only High Courts had the power to quash the case on the basis of mutual settlement.

15. It is settled that a criminal proceeding which is not compoundable can be quashed by the High Court under Section 482 Cr.P.C. When settlement takes place, then both the parties can file a petition under Section 482 Cr.P.C. and the High Court, considering the bona fide of the petition, may quash the same.

16. In the instant case, the petitioners have amicably settled their disputes and differences and entered into an Agreement by agreeing to withdraw or not press or close the cases initiated by them. The petitioners have also filed through the

typed set of papers the orders showing that some of the cases were withdrawn in view of the Deed of Agreement. The factum of withdrawal of the cases stated by the petitioners has not been disputed and/or denied by the learned Government Pleader and in fact, the cases withdrawn by the petitioners earlier relate to compoundable offences.

17. In the instant case, the offence being under Section 498-A IPC, as stated supra, the High Court only has got power to quash the offence in view of the settlement arrived at between the parties. Equally, it is settled that the High Court is entitled to quash proceedings under Section 482 Cr.P.C., if it comes to the conclusion that the ends of justice so require.

18. In *Madhavrao Jiwajirao Scindia v. Sambhajirao Chandrojirao Angre*, reported in (1988) 1 SCC 692, the

Hon'ble Supreme Court held that, while exercising inherent power of quashing under Section 482 Cr.P.C., it is for the High Court to take into consideration any special features which appear in a particular case to consider whether it is expedient and in the interest of justice to permit a prosecution to continue. Where, in the opinion of the Court, chances of an ultimate conviction are bleak and, therefore, no useful purpose is likely to be served by allowing a criminal prosecution to continue, the High Court may, while taking into consideration the special facts of a case, also quash the proceedings.

19. In the instant case, as stated supra, based on the settlement arrived at between the petitioners, they seek to quash the proceedings in Criminal (P) Case No.174 of 2017 for the offence under Section 498-A IPC. When the parties have settled their disputes and accordingly, reduced to writing the terms and conditions to withdraw the cases, even the cases which are non-compoundable, it becomes the duty of the Court to encourage genuine settlements of matrimonial disputes. The prosecution has not disputed the settlement arrived at between the petitioners and also, it is evident that based on the settlement arrived at between the petitioners, some of the cases have been withdrawn from the Court. Therefore, in the given facts and circumstances of the case, the Deed of Agreement relied on by the petitioners is genuine and the same has been acted upon between the parties.

20. There is no doubt that the object of introducing Section 498-A IPC 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 punish the husband and his relatives who harass or torture the wife to coerce her or her relatives to satisfy unlawful demands of dowry. Any hyper-technical view would be counter productive 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.

21. Holding that "special features in matrimonial matters are evident" and that it

is "the duty of the Court to encourage genuine settlements of matrimonial disputes", referring to *Madhavrao Jiwajirao Scindia*, supra, In *B.S. Joshi*, Supra, it was observed that:

"11. ... Where, in the opinion of the court, chances of an ultimate conviction are bleak and, therefore, no useful purpose is likely to be served by allowing a criminal prosecution to continue, the court may, while taking into consideration the special facts of a case, also quash the proceedings."

22. Observing that powers under Section 482 Cr.P.C. have no limits and where there is more power, it becomes necessary to exercise utmost care and caution while invoking such powers, in *B.S. Joshi*, Supra, the Hon'ble Supreme Court held:

"6. In *Pepsi Foods Ltd. V. Special Judicial Magistrate* (1998) 5 SCC 749, this Court with reference to *Bhajan Lal case* (1992) SCC (Cri) 426 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 formulate to be followed by the courts. Exercise of such power would depend upon the facts and circumstances of each case but with the sold 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."

23. In *B.S. Joshi*, Supra, the Hon'ble Supreme Court further held:

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

14. There is no doubt that the object of introducing Chapter XX-A containing Section 498A in the Indian Penal Code was to prevent the torture to a woman by her husband or by relatives of her husband. Section 498A 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 hyper-technical

view would be counter productive 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 XXA of 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."

24. Quashing of the offence or criminal proceedings on the ground of settlement between an offender and victim and 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 Cr.P.C. This position has been elaborately dealt with by the Hon'ble Supreme Court in *Gian Singh, supra*, wherein it was held as under:

"53. 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.

54. 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 IPC 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.

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57. The position that emerges from the above discussion can be summarised thus: the power of the High Court in quashing a criminal proceeding or FIR or complaint in exercise of its inherent jurisdiction is distinct and different from the power given to a criminal court for compounding the offences under Section 320 of the Code. Inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accord with the guideline engrafted in such power viz; (i) to secure the ends of justice or (ii) to prevent abuse of the process of any Court. In what cases power to quash the criminal proceeding or complaint or F.I.R. may be exercised where the offender and victim have settled their dispute would depend on the facts and circumstances of each case and no category can be prescribed. However, before exercise of such power, the High Court must have due regard to the nature and gravity of the crime. Heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc cannot be fittingly quashed even though the victim or victim's family and the offender have settled the dispute. Such offences are not private in nature and have serious impact on society. Similarly, any compromise between the victim and offender in relation to the offences under special statutes like Prevention of Corruption Act or the offences committed by public servants while working in that capacity etc; cannot provide for any any basis for quashing criminal proceedings involving such offences. But the criminal cases having overwhelmingly and pre-dominantly civil flavour stand on different footing for the purposes of quashing, particularly the offences arising from commercial, financial, mercantile, civil, partnership or such like transactions or the offences arising out of matrimony relating to dowry, etc. or the family disputes where the wrong is basically private or personal in nature and the parties have resolved their entire dispute. In this category of cases, High Court may quash criminal proceedings if in its view, because of the compromise between the offender and victim, the possibility of conviction is remote and bleak and continuation of criminal case would put accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case despite full and complete settlement and compromise

with the victim. In other words, the High Court must consider whether it would be unfair or contrary to the interest of justice to continue with the criminal proceeding or continuation of the criminal proceeding would tantamount to abuse of process of law despite settlement and compromise between the victim and wrongdoer and whether to secure the ends of justice, it is appropriate that criminal case is put to an end and if the answer to the above question(s) is in affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding."

25. The above views in the context of matrimonial disputes resulting in criminal proceedings have been consistently followed over the years, as was further illustrated by the decision of a Bench of Three Judges of the Hon'ble Supreme Court in *Jitendra Raghuvanshi and Ors. Vs. Babita Raghuvanshi and Anr.*, reported in (2013) 4 SCC 58, wherein the following observations were made:

"15. In our view, it is the duty of the courts to encourage genuine settlements of matrimonial disputes, particularly, when the same are on considerable increase. Even if the offences are non-compoundable, if they relate to matrimonial disputes and the Court is satisfied that the parties have settled the same amicably and without any pressure, we hold that for the purpose of securing ends of justice, Section 320 of the Code would not be a bar to the exercise of power of quashing of FIR, complaint or the subsequent criminal proceedings. 16. There has been an outburst of matrimonial disputes in recent times. The institution of marriage occupies an important place and it has an important role to play in the society. Therefore, every effort should be made in the interest of the individuals in order to enable them to settle down in life and live peacefully. If the parties ponder over their defaults and terminate their disputes amicably by mutual agreement instead of fighting it out in a court of law, in order to do complete justice in the matrimonial matters, the courts should be less hesitant in exercising their extraordinary jurisdiction. It is trite to state that the power under Section 482 should be exercised sparingly and with circumspection only when the Court is convinced, on the basis of material on record, that allowing the proceedings to continue would be an abuse of process of court or that the ends of justice require that the proceedings ought to be quashed..."

26. In *Anup Singh v. State (Govt. of NCT of Delhi)* and another, reported in 2018 254 DLT 700 : 2018 Supreme (Del) 3197, in which case a petition has been moved before the Delhi High Court seeking to invoke Article 227 of the Constitution of India and Section 482 Cr.P.C. to quash the FIR No.354 of 2011 under Sections 498-A, 406, 34 IPC by the spouses in view of settlement dated 11.08.2014 arrived at between them before Delhi Mediation Centre at Tis Hazari Court, Delhi, after referring to the decisions in *B.S.Joshi*; *Gian Singh*; *Jitendra Raghuvanshi* and *Madhavroa Jiwajirao Scindia*, supra, the Delhi High Court held as under:

12. In a case where criminal proceedings arise essentially out of matrimonial dispute and the parties have decided to bury the hatchet, the court must

examine if there is any likelihood of the criminal prosecution resulting in conviction. In fact-situation wherein the matrimonial relation has been brought to an end by mutual consent and the parties are eager to move on with their respective lives seeking closure and if there is nothing to indicate lack of bonafide on the part of any side, denial of the prayer for quashing the criminal case would restore acrimony rather than bring about peace. Allowing continuance of the criminal action would be fruitless and clearly an abuse of judicial process.

13. The case at hand passes the muster of the above noted tests.

14. In the above facts and circumstances, the petition is allowed. The crimes registered by the police vide FIR 354/2011 under Section 498A, 34 IPC of Police Station Kirti Nagar and the proceedings emanating therefrom are hereby quashed."

27. In *Narinder Singh and others v. State of Punjab and another*, reported in (2014) 6 SCC 466, while relying on the earlier judgment in *Gian Singh*, supra, the Hon'ble Supreme Court held that the High Court in exercise of its inherent power may quash the criminal proceedings even in those cases which are non compoundable but the parties have settled their disputes between themselves. In Paragraphs 29.1 to 29.7, the Hon'ble Supreme Court held:

"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, 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 case.

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 later case it would be permissible for the High Court to accept the plea compounding the offence based on complete settlement between the parties. At this stage, the Court can also be swayed by the fact that the settlement between the parties is going to result in harmony between them which may improve their future relationship.

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."

28. In *Shubham Shukla and others v. State of U.P and others*, reported in 2018 Supreme (All) 857, a Division Bench of Allahabad High Court considered the similar issue and after referring to the decisions of the Hon'ble Supreme Court in *B.S.Joshi and Gian Singh, supra*, it was held as under:

"17. In view of above, we are of the considered opinion that no fruitful purpose would be served by allowing the prosecution, lodged by the impugned First Information Report, to continue, rather it may cause oppression and prejudice. Our this view is also fortified by paragraph 15(ix) of a recent judgment of Hon'ble Supreme Court in *Parbhatbhai Ahir v. State of Gujarat and others*, AIR 2017 SC 4843, in which Hon'ble Supreme Court has laid down the broad principles in respect of quashing of the First Information Report. The paragraph 15 of the said judgment, on reproduction, reads as under :

"15. The broad principles which emerge from the precedents on the subject, may be summarised in the following propositions:

(i) Section 482 preserves the inherent powers of the High to prevent an abuse of the process of any Court or to secure the ends of justice. The provision does not confer new powers. It only recognises and preserves powers which inhere in the High Court;

(ii) 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 of the Code of Criminal Procedure, 1973. The power to quash Under Section 482 is attracted even if the offence is non-compoundable.

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

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

(v) The decision as to whether a complaint or First Information Report should be quashed on the ground that the offender and victim have settled the dispute, revolves ultimately on the facts and circumstances of each case and no

exhaustive elaboration of principles can be formulated;

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

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

(viii) 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;

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

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

18. This Court also in its judgment in Writ Petition No. 22241(M/B) of 2017: Vivek Vanswar and others v. State of U.P. and others after considering the judgments of B.S. Joshi (Supra), Gian Singh (Supra) and Narinder Singh (Supra) in respect of quashing of the criminal proceedings initiated under Section 498-A I.P.C. and related provisions and where there is a compromise or the parties have settled their dispute outside the Court, has opined that these proceedings should be quashed once the parties have settled their dispute outside the Court. Para 5 of the Vivek Vanswar's case (supra) reads as under:

"5. The object of the criminal prosecution is to punish guilty for committing the offence. When the result of the prosecution is well known that it would result in acquittal inasmuch as the complainant herself would not support the prosecution case, it would not serve any purpose for allowing the prosecution to go on. When

it is absolutely crystal clear that the continuance of the criminal proceedings would be an exercise in futility, the High Court should not hesitate to quash such proceedings if the complainant herself comes before the Court and says that the criminal proceedings initiated by her be quashed against the accused. It is also well known fact that there has been a phenomenal surge in cases under Section 498A I.P.C. but there have been only a very few convictions. This fact itself shows that prosecution under Section 498A I.P.C. is quite often used as a potent weapon to settle score or for oblique purposes. Keeping in view the aforesaid facts, the High Court should quash the criminal proceedings arising out of the matrimonial discord particularly when complainant herself comes before a Court for quashing of the criminal proceedings initiated by her on the ground that the parties have settled their disputes outside the Court.

19. Considering the settlement arrived at between the parties and in view of the settlement agreement dated 31.5.2018, the terms of which have been reproduced in paragraph 8 and the categorical stand of the opposite party No. 4 made before this Court, we are of the considered opinion that no useful purpose would be served in continuation of criminal proceedings in pursuance of the impugned First Information Report. Accordingly, it would be appropriate, in the facts and circumstances of the case, to quash the impugned First Information Report as continuation of the proceedings of the First Information Report would be a futile exercise."

29. From the law enunciated in the above decisions of the Hon'ble Supreme Court, it is explicit and clear that 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 the 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 predominately 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, the High Court in exercise of power, can quash the criminal proceedings in view of the compromise between the offender and the victim.

30. The Three Judges Bench of the Hon'ble Supreme Court in Social Action Forum for Manav Adhikar and another v. Union of India Ministry of Law and Justice and others, reported in (2018) 10 SCC 443 held that if a settlement is arrived at, the parties can approach the High Court under Section 482 of Cr.P.C. and the High Court, keeping in view the law laid down in Gian Singh, supra, shall dispose of the same. The present case is on the same footing.

31. As stated supra, the petitioners who are victim and the alleged offender have settled their disputes and agreed to withdraw the cases initiated against each other. In the background of the facts of the present case, this Court is of the

considered view that continuation of the criminal proceedings in Criminal (P) Case No.174 of 2017 on the file of the Chief Judicial Magistrate, Imphal West would tantamount to abuse of process of law in view of the settlement and compromise between the petitioners, who are victim and the alleged offender. In order to secure ends of justice, it is appropriate that the criminal case in Criminal (P) Case No.174 of 2017 be put to an end.

32. Considering the settlement arrived at between the petitioners and in view of the Deed of Agreement dated 19.09.2018, the terms of which have been reproduced supra and the categorical stand of the petitioners made before this Court, this Court is of the considered opinion that no useful purpose would be served in continuation of the criminal proceedings in pursuance of the First information Report and the subsequent cognizance of the offence in Criminal (P) No.174 of 2017 on the file of the Chief Judicial Magistrate, Imphal West, Manipur. Accordingly, it would be appropriate, in the facts and circumstances of the case, to quash the criminal proceedings in Criminal (P) No.174 of 2017 on the file of the chief Judicial Magistrate, Imphal West, Manipur as continuation of the proceedings would be a futile exercise.

33. After giving due regard to the nature and gravity of the alleged offence and its societal impact, though the offence alleged is non-compoundable one, in view of the compromise arrived at between the parties and exercising the power under Section 482 Cr.P.C., the criminal proceedings in Criminal (P) No.174 of 2017 is liable to be quashed in the interest of justice as well as the welfare of the petitioners.

34. In the result, the Criminal Petition is allowed and the entire proceedings in Criminal (P) No.174 of 2017 on the file of the Judicial Magistrate, Imphal West, Manipur is quashed in view of the Deed of Agreement dated 19.09.2018 entered into between the petitioners and their parents.