

(2024) 04 MP CK 0170

In the Madhya Pradesh High Court

Case No : Miscellaneous Criminal Case No. 16416 Of 2024

Nikhil

APPELLANT

Vs

State Of Madhya Pradesh And Others

RESPONDENT

Date of Decision : 23-04-2024

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 320, 320(2), 482
Indian Penal Code, 1860 — Section 34, 294, 394, 506

Citation : (2024) 04 MP CK 0170

Hon'ble Judges : Vivek Rusia, J

Bench : Single Bench

Advocate : Yogesh Kumar Gupta, Kratik Mandloi, Amit Kumar Agnihotri

Final Decision : Disposed Of

Judgement

Vivek Rusia, J

1. The present petition is filed under Section 482 of Code of Criminal Procedure, 1973 seeking quashment of FIR registered at Crime No.498 of 2019 registered at Police Station Palasia, District Indore for offences punishable under Sections 394, 294 and 506 read with Section 34 of Indian Penal Code, 1860, charge-sheet and subsequent proceedings in respect of Sessions Trial No.209 of 2019 by way of compromise.

2. An FIR at Crime No.498 of 2019 was registered on a complaint made by respondent No.2 against co-accused Jitendra @ Jitu Soni S/o Late Shri Jagjeevandas Soni and Amit Soni S/o Shri Jitendra Soni as well as Nikhil Soni (present petitioner) that they not only assaulted him but snatched Rs.20,000/- from his pocket. During pendency of the trial, the application under Section 320 (2) of Cr.P.C. was filed on the basis of compromise between the parties.

3. Vide order dated 05.03.2024, the learned Additional Sessions Judge has quashed the charges under Section 294 of IPC and declined for offence under Section 394/34 of IPC as the offences are not compoundable under this Section.

Hence this petition before this Court.

4. Shri Yogesh Kumar Gupta, learned counsel for the petitioner submits that now the complainant has entered into a compromise with the petitioner hence, it would be a futile exercise for the learned trial Court to decide it finally. Therefore, in order to save the valuable time of the Court, this Court is having power to quash the FIR (Annexure P/1) even in case of the non-compoundable offence in view of the law laid down by the Apex Court in case of Gian Singh Vs. State of Punjab and Anr. reported in (2012) 10 SCC 303 . Learned counsel also submitted that Miscellaneous Criminal Case No.11702 of 20204 filed by co-accused persons Jitendra @ Jitu Soni S/o Late Shri Jagjeevandas Soni and Amit Soni S/o Shri Jitendra Soni, seeking quashment of the aforesaid FIR has already been allowed by this Court vide order dated 16.04.2024.

5 . Shri Kratik Mandloi, learned Government Advocate for the respondent No.1 / State opposes the aforesaid prayer and prays for dismissal of this petition.

6. Shri Amit Kumar Agnihotri, learned counsel for respondent No.2 / complainant has no objection to the aforesaid prayer.

7. The Apex Court in the case of Gian Singh Vs. State of Punjab and Anr. reported in (2012) 10 SCC 303 after considering the provisions of Section 320 and 482 of the Cr.P.C held that the compounding was permitted in a non-compoundable offence. Relevant part of the order of the order reads as under :-

"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.

B.S.Joshi, Nikhil Merchant, Manoj Sharma and Shiji 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."

8. Accordingly, FIR registered at Crime No.498 of 2019 under Sections 394, 294 and 506 read with Section 34 of IPC Police Station Palasia, District Indore (M.P.) and consequential proceedings arising out of Crime No. 498 of 2019 are hereby quashed.

9. With the aforesaid, M.Cr.C. stands disposed of.