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**(2019) 10 BOM CK 0119**

**In the Bombay High Court**

**Case No :** Criminal Application (Apl) No. 988 Of 2019

Taj @ Arjun And Ors

APPELLANT

Vs

State Of Maharashtra

RESPONDENT

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**Date of Decision :** 22-10-2019

**Acts Referred:**

Code Of Criminal Procedure, 1973 — Section 320, 320(1), 320(2), 482  
Indian Penal Code, 1860 — Section 307, 341, 354(a)(1)(i), 354(d), 506(b)  
Protection Of Children From Sexual Offence Act, 2012 — Section 7, 8  
Constitution Of India, 1950 — Article 227

**Citation :** (2019) 10 BOM CK 0119

**Hon'ble Judges :** Sunil B. Shukre, J;Milind N. Jadhav, J

**Bench :** Division Bench

**Advocate :** P.S. Jaiswal, K.S. Joshi

**Final Decision :** Disposed Of

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**Judgement**

Milind N. Jadhav, J

1. Heard. Rule. Rule made returnable forthwith. Heard finally by consent of the parties.

2. The present application is filed under the provisions of Section 482 of Criminal Procedure Code, 1973 read with Article 227 of the Constitution of India for quashing F.I.R. No.396/2015 dated 21.09.2015 registered with Lakadganj Police Station, Nagpur, charge-sheet No.251/2015 dated 24.11.2015 and criminal proceedings initiated under the provisions of Sections 354(a)(1)(i), 354(d), 341, 506(b) of the Indian Penal Code and Sections 7, 8 of The Protection of Children from Sexual Offence Act, 2012 (in short 'POCSO'). Applicant no.2 is the complainant whereas Applicant no. 1 is accused in the aforementioned crime. After completion of investigation, charge-sheet has been filed before the District & Sessions Judge-8, Nagpur on 24.12.2015 bearing Special POCSO Case No.258/20158 and charges have been framed therein and presently the case is fixed for evidence.

3. Applicant nos.1 and 2 have jointly preferred the present Criminal Application under the provisions of Section 482 of Criminal Procedure Code, 1973 for quashing of the aforesaid proceedings.

4. The relevant facts necessary for consideration of the present application are thus:-

Applicant no.2 (complainant/girl) lodged a complaint against Applicant no.1 with non-applicant i.e. Police Station, Lakadganj, Nagpur sometime in the year 2015 of an incident which occurred on 01.08.2015. It was Applicant no.2's case that approximately 5/6 months before the date of incident, Applicant no. 1 obstructed Applicant no. 2 near Dahi Bazar area and threatened her to make friendship with the Applicant no.1 and if she refused, Applicant no.1 threatened to jump in front of a running truck. In between the above incident and the date of actual incident, it is the case of Applicant no.2 that Applicant no.1 used to follow her wherever she went and used to threaten the Applicant no.2 that if she narrated the above incident to anybody, Applicant no.1 would kidnap her younger brother. Applicant no.2 has also complained that Applicant no. 1 sometimes used to come to her tuition class in an intoxicated state by consuming liquor and give bad words/abuses to Applicant no.2. On 01.08.2015 i.e. on the date of actual incident, the Applicant no.1 forcibly took the Applicant no.2 to a garden near Reshimbagh ground and put his hand across her shoulders and forcefully kissed her on her cheeks and thereafter on her lips against her wish. Applicant no.1 also took a selfie picture in his mobile phone along with Applicant no.2 while kissing her. Being disturbed with this incident on 01.08.2015, Applicant no.2 narrated the incident to her parents, resulting in the offence being registered against Applicant no.1 vide Crime No.396/2015 under the relevant provisions of Indian Penal Code and POCSO Act on 21.09.2015. Applicant no.1 was 19 years old, whereas Applicant no.2 was 17 years old in 2015.

5. In the F.I.R., it was further recorded that after the date of incident on 01.08.2015, Applicant no.1 spread rumors in the entire locality of residence of Applicant no.2 that Applicant no.1 was having a love affair with Applicant no.2 and had married her. On 20.09.2015, Applicant no.1 once again obstructed the way of Applicant no.2 and threatened her by forcefully holding her hand and stating that if she acted smartly with Applicant no.1, he would kill the Applicant no. 2. This incident on 20.09.2015 triggered the filing of F.I.R. on 21.09.2015. The F.I.R. was registered on 21.09.2015, interalia, stating the incidents as narrated above. The F.I.R. recorded that Applicant no.2 was a student of 12th standard in Mohata Science College, Nagpur. It further recorded that on the date of incident on 01.08.2015, Applicant no.1 forcefully kissed Applicant no.2 on her cheek and lips and while doing so, he had taken a selfie picture and on the basis of that Applicant no.1 used to blackmail Applicant no.2. The F.I.R. further recorded that Applicant no.1 had given five mobile phones to Applicant no.2 which she had thrown away and Applicant no.1 used to spread false rumors about their love affair, that they had got married and that Applicant no.1 used to

visit the house of Applicant no.2 at night time, in order to malign the reputation of Applicant no.2.

6. Shri Jaiswal, learned counsel appearing on behalf of the Applicants placed reliance upon the following cases for seeking quashment of the proceedings, on the basis of settlement arrived at between the parties. He submitted that the present proceedings have a predominant civil character between the two young individuals at the threshold of their lives and therefore in view of the compromise arrived at between the parties, the pendency criminal proceedings deserved to be quashed in the interest of justice for both the Applicants, considering the long future of the Applicants and looking into the facts and circumstances of the present case.

7. Shri Jaiswal referred to and relied upon the case of Narinder Singh and others Vs. State of Punjab and another, reported in (2014) 6 SCC 466. Though the facts in this case were somewhat different, the Hon'ble Apex Court has laid down certain principles and guidelines distinguishing application of the inherent provisions of Section 482 for quashment of offences. The Hon'ble Apex Court has laid down guidelines for exercising discretionary judicial powers under the provisions of Section 482 of the Code of Criminal Procedure to make the law clear and discernible in its application, in so far as quashment of proceedings is concerned. The guidelines laid down and which are relevant for the purpose of deciding the present case are illustrated in the relevant paragraphs as appearing in the judgment thus:-

"8. We find that there are cases where the power of the High Court under Section 482 of the Code to quash the proceedings in those offences which are uncompoundable has been recognized. The only difference is that under Section 320(1) of the Code, no permission is required from the Court in those cases which are compoundable though the Court has discretionary power to refuse to compound the offence. However, compounding under Section 320(1) of the Code is permissible only in minor offences or in non-serious offences. Likewise, when the parties reach settlement in respect of the offences enumerated in Section 320(2) of the Code, compounding is permissible but it requires the approval of the Court. In so far as serious offences are concerned, quashing of criminal proceedings upon compromise is within the discretionary powers of the High Court. In such cases, the power is exercised under Section 482 of the Code and proceedings are quashed. Contours of these powers were described by this Court in B.S.Joshi vs. State of Haryana (2003) 4 SCC 675 which has been followed and further explained/elaborated in so many cases thereafter, which are taken note of in the discussion that follows hereinafter.

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 solitary and squarely by the compromise between the parties, in so far 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. Such a distinction is lucidly explained by a three-Judge Bench of this Court in *Gian Singh vs. State of Punjab & Anr.* (2012) 10 SCC 303. Justice Lodha, speaking for the Court, explained the difference between the two provisions in the following manner:

"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 vs. State of Haryana* (2003) 4 SCC 675, *Nikhil Merchant vs. CBI*, (2008) 9 SCC 677, *Manoj Sharma vs. State* (2008) 16 SCC 1 and *Shiji vs. Radhika* (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 vs. State of Haryana* (supra), *Nikhil Merchant vs. CBI* (supra), *Manoj Sharma vs. State* (supra) and *Shiji vs. Radhika* (supra) 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."

10. Apart from narrating the interplay of Section 320 and Section 482 of the Code in the manner aforesaid, the Court in *Gian Singh vs. State of Punjab* (supra) also described the extent of power under Section 482 of the Code in quashing the criminal proceedings in those cases where the parties had settled the matter although the offences are not compoundable. In the first instance it was emphasized that the power under Sec. 482 of the Code is not to be resorted to, if there is specific provision in the Code for redressal of the grievance of an

aggrieved party. It should be exercised very sparingly and should not be exercised as against the express bar of law engrafted in any other provision of the Code. The Court also highlighted that 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.

11. As to under what circumstances the criminal proceedings in a non-compoundable case be quashed when there is a settlement between the parties, the Court provided the following guidelines: (Gian Singh vs. State of Punjab) (supra)

"58. Where the High Court quashes a criminal proceeding having regard to the facts 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."

12. Thereafter, the Court summed up the legal position in the following words: (Gian Singh vs. State of Punjab) (supra)

"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 an FIR or a 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 guidelines 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 flavor 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 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."

The Court in Gian Singh Case was categorical that in respect of serious offences or other offences of mental depravity or offence of merely dacoity under special statute, like the Prevention of Corruption Act or the offences committed by public servant while working in that capacity. The mere settlement between the parties would not be a ground to quash the proceedings by the High Court and inasmuch as settlement of such heinous crime cannot have imprimatur of the Court.

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23. As there is a close relation between the 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 offences under Section 307 IPC.

24. The two rival parties have amicably settled the disputes between themselves and buried the hatchet. Not only this, they say that since they are neighbours, they want to live like good neighbours and that was the reason for restoring friendly ties. In such a scenario, should the court give its imprimatur to such a settlement. The answer depends on various incidental aspects which need serious discourse. The legislators have categorically recognized that those offences which are covered by the provisions of section 320 of the Code are concededly those not only do not fall within the category of heinous crime but also which are personal between the parties. Therefore, this provision recognizes where there is a compromise between the parties the Court is to act at the said compromise and quash the proceedings. However, even in respect of such offences not covered within the four corners of Section 320 of the Code, the High Court is given power under Section 482 of the Code to accept the compromise between the parties and quash the proceedings. The guiding factor is as to whether the ends of justice would justify such exercise of power, both the ultimate consequences may be acquittal or dismissal of indictment. This is so recognized in various judgments taken note of above.

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/delicate 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 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."

8. Shri Jaiswal submitted that the facts and circumstances of the present case and guidelines at 29.1. to 29.5 (cited supra) squarely applied to the present case. He submitted that the offence involved in the present case not heinous and serious and as such deserved to be examined from the possibility of conviction being bleak and continuation of the case would jeopardise the future life of both the Applicants. He submitted that both the Applicants had just stepped out of their teenage years at the time the incident and thus, it was more of a case of infatuation as largely observed in today's society amongst the youths who are not well guided resulting in such situations. He submitted that considering that the offences were of a private nature between two private individuals and looking ahead to its impact on the society at large, this Court ought to take a lenient view. He urged the Court to consider the present status of both the Applicants while exercising its power of quashing the criminal proceedings, especially in view of the fact that both the Applicants had decided to move on with their respective lives. He submitted that the definition of sexual assault as enumerated under Section 7 of the POCSO Act was very wide and this Court should consider the incident as it occurred on 01.08.2015. He submitted that both the Applicants being young could have gone astray in understanding the implications of their actions and therefore this Court should balance the convenience and repercussions of the various acts of the Applicants and decide the present matter in view of the law laid down by the Apex Court and followed by this Court in a catena of cases.

9. Shri Jaiswal referred to and relied upon the case of State of Madhya Pradesh

Vs. Laxmi Narayan and others, reported in (2019) 5 SCC 688. He submitted that quashment of criminal proceedings depend upon the facts and circumstances of each case as held by the Hon'ble Apex Court in the aforesaid case and this Court should consider the relevant aspects as to whether a particular crime was against the society or against an individual alone, the nature and kind of dispute, whether civil or criminal, seriousness of the crime, nature and category of commission of crime, whether offence was covered under any special statute, conduct and antecedents of the accused and such all issues. He submitted that looking into the age factor of both the Applicants, this Court be guided by the principles of law summarized by the Hon'ble Apex Court in the above case and brought to our attention the contents of paragraph no. 15 which reads thus :-

"15. Considering the law on the point and the other decisions of this Court on the point, referred to hereinabove, it is observed and held as under:

15.1. That the power conferred under Section 482 of the Code to quash the criminal proceedings for the non-compoundable offences under Section 320 of the Code can be exercised having overwhelmingly and predominantly the civil character, particularly those arising out of commercial transactions or arising out of matrimonial relationship or family disputes and when the parties have resolved the entire dispute amongst themselves;

15.2. Such power is not to be exercised in those prosecutions which involved 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;

15.3. Similarly, such power is not to be exercised for the offences under the special statutes 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;

15.4. Offences under Section 307 IPC and the Arms Act etc. would fall in the category of heinous and serious offences and therefore are to be treated as crime against the society and not against the individual alone, and therefore, the criminal proceedings for the offence under Section 307 IPC and/or the Arms Act etc. which have a serious impact on the society cannot be quashed in exercise of powers under Section 482 of the Code, on the ground that the parties have resolved their entire dispute amongst themselves. 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 framing 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/delicate parts of the body, nature of weapons used etc. However, such an exercise by the High Court would

be permissible only after the evidence is collected after investigation and the charge sheet is filed/charge is framed and/or during the trial. Such exercise is not permissible when the matter is still under investigation. Therefore, the ultimate conclusion in paragraphs 29.6 and 29.7 of the decision of this Court in the case of Narinder Singh (*supra*) should be read harmoniously and to be read as a whole and in the circumstances stated hereinabove;

15.5. While exercising the power under Section 482 of the Code to quash the criminal proceedings in respect of non-compoundable offences, which are private in nature and do not have a serious impact on society, on the ground that there is a settlement/compromise between the victim and the offender, the High Court is required to consider the antecedents of the accused; the conduct of the accused, namely, whether the accused was absconding and why he was absconding, how he had managed with the complainant to enter into a compromise etc.

10. Shri Jaiswal thereafter referred to and relied upon the case of Parbatbhai Aahir vs The State Of Gujarat, reported in (2018) SCC (Cri) 1. He referred to and relied upon the proposition laid down by the Hon'ble Apex Court summarising the power of the High Courts for quashing complaint/criminal proceedings after considering the guidelines on the said point. Paragraph no. 16 of the said judgment reads thus :-

"16.1. 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 recognises and preserves powers which inhere in the High Court.

16.2. 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 of the Code of Criminal procedure, 1973. The power to quash under Section 482 is attracted even if the offence is non-compoundable.

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

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

16.5. The decision as to whether a complaint or first information report should be quashed on the ground that the offender and victim have settled the dispute, revolves ultimately on the facts and circumstances of each case and no

exhaustive elaboration of principles can be formulated.

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

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

16.8. Criminal cases involving offences which arise from commercial, financial, mercantile, partnership or similar transactions with an essentially civil flavour may in appropriate situations fall for quashing where parties have settled the dispute.

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

16.10. There is yet an exception to the principle set out in Propositions 16.8 and 16.9 above.

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

11. Shri Jaiswal thereafter relied upon the case of Meghanath Pandurang Divkar Vs. State of Goa and others, reported in 2015 SCC OnLine Bom 6624 (in Criminal Writ Petition No. 137/2015, decided on 28.10.2015). He submitted that in the said case, criminal proceedings were also initiated under the special statute i.e. POCSO Act and which is the situation in the instant case. He submitted that the facts of this case were somewhat similar with the present case in hand as much as the respective parties involved therein were also teenagers and the Petitioner therein had a one sided liking towards the daughter of Respondent no. 3 because of which he approached her, talked to her and held her hand forcefully. He submitted that in view of the compromise arrived at between the Applicants, this Court after application of the guidelines and principles laid down in the case of

State of M.P. Vs. Laxmi Naranyan (cited supra) and Narinder Singh Vs. State of Panjab (supra) ought to take a lenient view in the totality of the facts and circumstances of the present case.

12. According to the Applicants, the grievances of the parties have now being amicably settled in pursuance of the settlement. The Applicants have stated that the entire dispute between them was due to immaturity and misunderstanding and the same has now been resolved. Applicant no.2 did not wish to proceed with her complaint against Applicant no.1 because Applicant no.1 is now married, settled and staying with his wife and it was mutually and amicably decided by the parties to file the present application jointly for seeking quashment of the proceedings. The Applicants have submitted that any trial conducted in the Court of law will be a wastage of public time and money, in as much as, chances of conviction will be absolutely negligible. Finally, the Applicants have submitted that the compromise and settlement that has been arrived at between the parties is free from any pressure and undue influence and therefore nothing remains to be proceeded with in the present case. The Applicants have also submitted that Applicant no. 1 was 19 years old and due to infatuation, immaturity and one sided love that he professed towards the Applicant no.2 (then 17 years old), the situation resulted in registration of the offence after the incident.

13. Shri Jaiswal finally submitted that the offences registered against Applicant no. 1 under Section 341 and 506B were compoundable in nature and this Court be pleased to take cognizance of the same as the Applicants were required to approach this Court because of registration of offences under Section 354(a) (1) (i), 354(d), 506(b) of the Indian Penal Code and Section 7 and 8 of POCSO Act.

14. Smt. Joshi, learned APP appearing on behalf of the non-Applicant/State submitted that in the present case charge-sheet had been filed on 24.11.2015 and therefore this Court ought to take the filing of charge-sheet into account before deciding the matter. However, she fairly submitted that on the overall reading of the facts and circumstances of the present case, Applicant no. 2 was a teenager i.e. of 17 years of age whereas Applicant no. 1 was 19 years old and therefore this Court can consider the totality of the circumstances while deciding the present case in the light of the guidelines laid down by the Hon'ble Apex Court (cited supra).

15. In paragraph nos. 3, 4 and 5 of the criminal application, the Applicants have jointly submitted and narrated the facts. Looking to the contents of the criminal application, it appears that both the Applicants have arrived at a compromise. Applicant no. 2 has withdrawn the allegations against Applicant no. 1 and therefore in such circumstances, continuation of the trial is nothing but a formality. If the said trial is held to be continued then both the Applicants who were barely 19 years and 17 years of age on the date of incident will have to attend the Court, which would be a meaningless exercise in futility. The offence committed by Applicant no. 1 is admittedly not a heinous crime or a serious

offence like murder, dacoity or rape. Therefore not allowing the compromise between the Applicants would essentially mean continuation of the criminal proceedings, and on abuse of the process of law and therefore in the interest of justice, Applicants ought to be permitted to compound the offences.

16. We have gone through the joint criminal application and additional affidavit dated 03.10.2019 filed by the Applicants jointly. The Applicants have jointly submitted that lodging of prosecution proceedings was due to one sided love of the Applicant no. 1 towards Applicant no. 2 as both of them were very young and did not have the maturity to deal with the situation. This affidavit further narrates present status of the Applicants viz. Applicant no. 1 being married and his wife being pregnant and about to deliver his first child. Further, Applicant no. 2 is a very bright student in academics and there lies a bright future for her life ahead and therefore, both the Applicants have arrived at the compromise. It is also urged that in so far as Applicant no. 1 is concerned, there were no antecedents or previous cases which should weigh with the Court while deciding the present case and this is an important factor for consideration.

17. Both the Applicants are present in Court today. On considering the pleadings, the totality of circumstances and the law laid down by the Hon'ble Apex Court, we are of the opinion that the criminal proceedings in the present case need to be quashed.

18. Accordingly, we allow Criminal Application and F.I.R. No. 396/2015 dated 21.09.2015 registered at Lakadganj Police Station, Nagpur lodged for offence punishable under Section 354(a)(1)(i), 354(d), 506(b) of the Indian Penal Code and Sections 7 and 8 of POCSO Act is hereby quashed and set aside with all consequent actions taken in respect of this crime. The charge-sheet dated 24.12.2015 is also hereby quashed.

19. Criminal Application is disposed of in the aforesaid terms.

20. Rule made absolute in the above terms. No costs.