

Counsel for the Opposite Parties:
Vijai Kumar Tiwari, G.A.

Criminal Law-The Code of Criminal Procedure,1973-Section 482 - The Indian Penal Coe, 1860-Sections 420, 323, 376, 344 - The Uttar Pradesh Conversion Prevention Act, 2020-Sections 3/4- Any compromise or settlement with respect to the offence of rape, against the honour of a woman, which shakes the very core of her life and tantamounts to a serious blow to her supreme honour, offending both, her esteem and dignity, is not acceptable to this Court--- The object of Act, 2020 is to provide for prohibition of unlawful conversion from one religion to another by misrepresentation, force, undue influence, coercion, allurement or by any fraudulent means--- It is clear that unlawful religious conversion, particularly when achieved through coercion, fraud, or undue influence, is considered a serious offence, in which the Court cannot quash the proceedings on the basis of settlement between the parties--- The alleged offences under section 376 IPC and Section 3/4 (1) U.P. Conversion Prevention Act, 2020, are serious in nature and non-compoundable, therefore, the instant proceedings cannot be quashed on the basis of compromise between the parties in exercise of powers conferred under Section 482 Cr.P.C. **(Para 48, 54 & 56)**

Petition dismissed. (E-15)

List of Cases cited:

1. B.S. Joshi & ors. Vs St. of Har. & anr.;
(2003)4 SCC 675

2. *Gian Singh Vs St. of Pun.* (2012) 10 SSC 303

3. St. of M.P. Vs Laxmi Narayan & ors. (2019) 5 SCC 688

4. Madhu Limaye Vs The St. Of Mah. (1977) 4 SCC 551

5. St. of Karn. Vs L. Muniswamy (1977) 2 SCC 699

6. Madhavrao Jiwajirao Scindia Vs Sambhajirao Chandrojirao Angre (1988) 1 SCC 692

Counsel for the Applicant:
Ved Prakash Mishra

7. Parbatbhai Aahir @ Parbatbhai Bhimsinhbhai Karmur & ors. Vs St. of Guj. & anr. (2017) 9 SCC 641

8. Social Action Forum For Manav Adhikar & anr. Vs U.O.I.& ors. (2018) 10 SCC 443

9. Narinder Singh & ors. Vs St. of Pun. & ors. (2014) 6 SCC 466

10. Shimbhu Vs St. of Har.10 (2014) 13 SCC 318

11. Shyam Narain Vs St. (NCT of Delhi)

12. Baldev Singh v. St. of Pun.

13. Ravindra Vs St. of M.P.

14. Daxaben Vs St. of Guj. & ors. 2022 SCC OnLine SC 936

15. St. of M.P. Vs Madan Lal (2015) 7 SCC 381

16. Rev. Stainislaus Vs St. of M.P. & ors. (1977) 1 SCC 677

17. Priyanshi @ Km Shamreen & anr. Vs St. of U.P. & ors. Writ-C No.14288 of 2020, decided on 23.09.2020

18. Smt. Noor Jahan Begum @ Anjali Mishra & anr. Vs St. of U.P. & ors. Writ-C No.57068 of 2014 alongwith connected matters, decided on 16.12.2014

(Delivered by Hon'ble Mrs. Manju Rani Chauhan, J.)

1. Heard Mr. Ved Prakash Mishra, learned counsel for the applicant, Mr. Vijai Kumar Tiwari, learned counsel for the opposite party no.2 and Mr. Pramod Kumar Singh, learned counsel for the State and perused the record.

2. The present 482 Cr.P.C. application has been filed to quash the charge-sheet No.230 of 2021, dated 07.05.2021 and the entire proceedings of

Criminal Case No.1340 of 2021, arising out of Case Crime No.220 of 2021, under Sections 420, 323, 376, 344 IPC and Section 3/4 (1) U.P. Conversion Prevention Act, 2020, Police Station Swar, District Rampur.

3. Brief facts of the case are that an FIR was lodged on 07.06.2021 at about 18:31 hrs by the opposite party no.2 against Rahul @ Mohd. Ayan and two unknown persons with the allegations that the opposite party no.2 became friendly with one Rahul through Facebook. Rahul took mobile number of opposite party no.2 and repeatedly used to call her. After nearly one year of chatting through Facebook, the alleged accused; Rahul proposed to marry the opposite party no.2. From the conversation through telephone, the opposite party no.2 liked habits of the aforesaid Rahul, therefore, she gave her consent of marriage. On request of Rahul, the opposite party no.2 reached Rampur from where she was taken to Nawabnagar, Police Station-Swar, District-Rampur, his village and she was detained in his house till six months. During the period of stay, she came to know that the aforesaid Rahul Kumar is a Muslim boy, therefore, she said that it is not possible for her to marry him as her religion is Hindu. On her refusal to marry, the opposite party no.2 was badly beaten by Rahul Kumar @ Mohd. Ayan s/o Mohd. Jahoor and without her consent, he forcefully established physical relations with her. She was illegally detained for six months and was sexually assaulted by him. He also called his two friends, who forcefully committed rape upon her. The opposite party no.2 has managed to run away from there and lodge the present FIR. She also disclosed that Rahul @ Mohd. Ayan exploited a number of girls by trapping them becoming friendly through

Facebook. She came to know about money being given by Madarsa for exploiting of Hindu girls, which was disclosed by him to opposite party no.2.

4. During course of investigation, statement of opposite party no.2 was recorded under Sections 161 and 164 Cr.P.C. and she was also medically examined. In her statements u/s 161 & 164 Cr.P.C., she has reiterated her version as narrated in the FIR and disclosed the name of two persons, i.e. Taufik Ahmad (applicant herein), and Mohd. Riyaz, who are brother-in-law and elder brother of Rahul Kumar @ Mohd. Ayan. Taufik Ahamd (applicant herein) and Mohd. Riyaz have also committed rape upon her. After investigation, charge sheet has been submitted on 07.05.2021.

5. It appears that on the submission as made by counsel for the applicant that the parties have entered into compromise, on 25.03.2023, the following order was passed by Hon'ble Syed Aftab Husain Rizvi, J. (since retired):-

“Learned counsel for the applicant is present. State is represented through learned A.G.A.

This Criminal Misc. Application under Section 482 of Cr.P.C. has been filed to quash the entire criminal proceeding against the Criminal Case No. 1340 of 2021 in chargesheet no. 230 of 2021 dated 07.05.2021 in Case Crime No. 220 of 2021 u/s 420, 323, 376, 344 IPC and 3/5(1) of U.P. Conversion Prevention Act, 2020, Police Station Swar, District Rampur.

Learned counsel for the applicant submitted that the parties have entered into a compromise. The terms and conditions have been entered into a compromise

which is Annexure No. CA-1 to the counter affidavit.

Learned counsel for the opposite party has acknowledged the aforesaid facts.

The parties shall appear before the trial court and file compromise within two weeks. Upon the said compromise being filed before the trial court, it shall after due identification, verify the compromise. The trial Judge shall forward to this Court a duly verified copy of the compromise entered into between the parties along with a copy of his order verifying the compromise which shall be before the next date fixed.

List on 28.04.2022.

Till the next date of listing, no coercive steps shall be taken against the applicant in the aforesaid case crime.

Office will ensure the compliance of the aforesaid order and will transmit the copy of the compromise along with copy of the order to the trial court through the concerned Session Judge within three days.”

6. The interim order so granted was extended on 28.04.2022 and 06.09.2022. Subsequently, when the matter was listed on 15.03.2023, the Co-ordinate Bench of this Court listed the matter for hearing on 10.04.2023 and the interim order was extended.

7. On 10.04.2023, as prayed by learned counsel for the applicant, 15 days' time was granted to file afresh compromise and the interim order was extended.

8. The matter came up for hearing before this Court on 31.08.2024 and on the said date, counsel for the parties were asked to address the Court on the issue as to how compromise can be entered in such

serious offence in which the FIR was lodged.

9. On 30.09.2024, the case was passed over on the illness slip of Mr. Ved Prakash Mishra, learned counsel for the applicant and the matter was fixed for hearing on 03.10.2024 at 10:00 a.m. On the said date, after hearing the counsel for the parties, judgment in the matter was reserved.

10. Learned counsel for the applicant, placing reliance upon the case of ***B.S. Joshi and others Vs. State of Haryana and Another; (2003)4 SCC 675***, submits that to prevent abuse of process of court and to secure ends of justice, the entire proceedings as well as chargesheet deserve to be quashed in exercise of inherent jurisdiction under Section 482 Cr.P.C. as the parties have amicably settled the dispute and have entered into compromise.

11. Learned counsel for the applicant as well as counsel for the opposite party no.2 submits that the compromise has already been verified on 21.04.2022 as is clear from the letter of Additional Chief Judicial Magistrate, Court No.1, Rampur. Therefore, the entire proceedings may be quashed.

12. On the other hand, Mr. Pramod Kumar Singh, learned AGA has opposed the prayer for quashing of the proceedings as well as charge sheet of the case on the basis of the compromise. He submits that some of the offences, are non- compoundable and heinous as well; they are not private/personal in nature, affecting only the individuals but they have impact on the society; they are wrong to the society and as such neither the offences can be compounded nor the

proceedings can be quashed on the basis of compromise.

13. On the cumulative strength of the aforesaid submissions, learned A.G.A. states that this Court may not exercise its inherent power under Section 482 Cr.P.C. in the present case, and hence the present application is liable to be rejected.

14. I have considered the submissions made by the learned counsel for the parties and gone through the records of the present application.

15. The short question which requires consideration is, whether in the exercise of inherent jurisdiction under Section 482 Cr.P.C. the charge sheet as well as the entire proceedings can be quashed in the cases involving an offence of Rape punishable under Section 376 and Section 376(1) U.P. Conversion Prevention Act, 2020 in view of the compromise entered into by the parties?

16. Before scrutinizing the facts of the present case and rephrasing the scope of powers exercisable by this Court under Section 482 Cr.P.C., it would be appropriate to understand Section 482 Cr.P.C. which provides for saving of inherent powers of High Court. Section 482 Cr.P.C., reads as under:-

"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."

17. The inherent power of the Courts set up by the Constitution is a power

that inheres in such Courts being Court of record. This power is vested by the Constitution itself, inter-alia, under Article 215 of the Constitution of India. Every High Court has inherent power to act *ex-debito justitiae* to do real and substantial justice, for the administration of which alone it exists or to prevent the abuse of the process of the Court. Section 482 Cr.P.C. saves inherent powers of the High Court and it starts with non-obstante clause "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." The inherent power can be exercised under Section 482 Cr.P.C. (i) to give effect to an order under the Code; (ii) to prevent abuse of the process of Court; and (iii) to otherwise secure the ends of justice.

18. This inherent power possessed by the High Court is of wide plenitude, with no statutory restrictions. The limitations imposed on exercise of such power are the self imposed restrictions. Any provision of the Code cannot limit or affect the inherent powers of the High Court. But, this power, being extraordinary, is required to be exercised sparingly, carefully, with caution, and circumspection and only when such exercise is justified by the tests specifically laid down in Section 482 Cr.P.C. If there is any specific provision in the statute for redressal of grievance, the High Court, ordinarily, refuses to invoke the extraordinary powers, and also, in a situation with respect to the matter where there is a specific bar of law engrafted in the statute. The paramount consideration to the exercise of this power is to prevent the abuse of the process of the Court. If any abuse of the process leading to injustice is brought to the notice of the Court, then the Court would be justified in

preventing injustice by invoking inherent powers in absence of any specific provision in the statute.

19. At this juncture, it would be apropos to illuminate the following principles laid down by a Three Judge Bench of the Apex Court in **Gian Singh Vs. State of Punjab**¹ case:-

"61. ...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.”

(Emphasis Applied)

20. The compendium of these broad fundamentals structured in more than one judicial precedent, has been recapitulated by

another Three Judge Bench of the Apex Court in **State of Madhya Pradesh vs. Laxmi Narayan & Ors.**² elaborating:

“(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;

(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; (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;

(4) xxx xxx xxx

(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.”

(Emphasis Applied)

21. Section 320 (1) of the Code provides for compounding of certain offences punishable under Indian Penal Code (IPC) specified in first two columns of the Table, given there under, by the persons mentioned in the third Column of the table. Sub-Section (2) of Section 320 of the Code, further provides for compounding of certain offences punishable under Indian Penal Code specified in the first two columns by the persons specified in the third column of the table given under Sub-section (2), with the permission of the Court before which any prosecution for such offence is pending. Subsection (9) of Section 320, specifically provides that, "No offence shall be compounded except as provided by this Section" i.e. Section 320 of the Code.

22. Section 320 Cr.P.C. does not come in the way of exercise of inherent power of the High Court for quashment of criminal proceeding. The power of the High Court for quashment of the criminal proceeding is distinct and different from the power given to a criminal Court for compounding the offences under Section 320 of the Code. The inherent power of the High Court is neither restricted nor controlled by Section 320 of the Code. The proceedings of the offences which are non-compoundable can also be quashed by the High Court in exercise of inherent jurisdiction, on the well settled principles, but sparingly and with caution, forming an opinion, on either of the two objectives of securing the ends of justice and to prevent abuse of the process of any Court. This bar of Section 320 Cr.P.C. is attracted only before the Criminal Court, where the prayer for compounding is made. There, only those offences which have been made compoundable, can be compounded and the offences which are non-compoundable

cannot be compounded in view of Sub-Section (9) of Section 320 Cr.P.C.

23. It is true that offences which are 'non-compoundable' cannot be compounded by a criminal court in purported exercise of its powers under Section 320 Cr.P.C. There is no patent or latent ambiguity in the language of Section 320 Cr.P.C., which may justify its wider interpretation and include such offences in the docket of 'compoundable' offences which have been consciously kept out as non-compoundable. Nevertheless, the limited jurisdiction to compound an offence within the framework of Section 320 Cr.P.C. is not an embargo against invoking inherent powers by the High Court vested in it under Section 482 Cr.P.C.

24. In **B.S. Joshi & Ors. Vs. State of Haryana & Another**,³ the Hon'ble Supreme Court has held that if for the purpose of securing the ends of justice, quashing of F.I.R becomes necessary, section 320 Cr.P.C. would not be a Bar to the exercise of power of quashing. It is, however, a different matter depending on facts and circumstances of each case, whether to exercise or not, such a power. The High Court in exercise of its inherent powers can quash criminal proceedings or F.I.R or complaint and Section 320 Cr.P.C. does not limit or affect the powers under Section 482 Cr.P.C.

25. Similarly, in the case of **Madhu Limaye vs. The State Of Maharashtra**⁴, the Apex Court has held 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.

26. In **State of Karnataka v. L. Muniswamy**⁵, considering the scope of inherent power of quashing under Section 482, the Apex Court has held that in the exercise of this wholesome power, the High Court is entitled to quash proceedings if it comes to the conclusion that the 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. The 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 also noticed by the Court, later 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 the 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? The answer clearly has to be in the "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.

27. In **Madhavrao Jiwajirao Scindia vs. Sambhajirao Chandojirao Angre**,⁶ the Apex Court has 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 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.

28. Thus, the Apex Court in **B.S. Joshi (Supra)** case has come to the conclusion 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.

29. In **Parbatbhai Aahir @ Parbatbhai Bhimsinhbhai Karmur and**

others Vs. State of Gujrat and another⁷, the Hon'ble Apex Court again summarized and laid down principles which emerged from the precedents on the subject, in paragraph no.16 of the judgment, which is as follows:-

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

16.1 Section 482 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 in so far 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."

30. In **Parbatbhai Aahir (Supra)**, the Hon'ble Supreme Court held that the High Court was justified in declining to entertain the application for quashing the FIR in exercise of its inherent jurisdiction, as the case involved extortion, forgery, conspiracy, fabrication of documents, utilization of fabricated documents to effectuate transfers of title before the registering authorities and deprivation of the complainant therein of his interest in land on the basis of a fabricated power of attorney, and consequently it was not in the interest of the society to quash the FIR on the ground that a settlement had been arrived at with the complainant. Such offences could not be construed to be merely private or civil disputes but implicated the societal interest in prosecuting serious crime.

31. In **"Social Action Forum For Manav Adhikar and Another Vs. Union of India and Others"**⁸, the Hon'ble Supreme Court reiterated that a criminal proceeding with respect to offence which is non-compoundable can be quashed by the High Court under section 482 Cr.P.C. When settlements take place, then both the parties can file a Petition under section 482

Cr.P.C and the High Court, considering bona-fide of the Petition shall dispose of the same, keeping in view the law laid down in **Gian Singh (Supra)**.

32. In **"State of Madhya Pradesh Vs. Laxmi Narayan and others"**⁹, the Hon'ble Supreme Court, again held that the power to quash the criminal proceedings in exercise of power under Section 482 of the Code 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. Paragraph 15 of **Laxmi Narayan (Supra)** is being reproduced as under:-

"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 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.”

33. In **Laxmi Narayan(Supra)**, the High Court had quashed the criminal proceedings for the offences under Section 307 and 34 IPC on the basis of settlement mechanically and even when the investigation was under process and some how, the accused managed to enter into a compromise with the complainant and sought quashing of the FIR on the basis of a settlement. It was held that the allegations were serious in nature. Fire arms was used in the commission of the offence. Considering the gravity of the offence and the conduct of the accused his antecedents, quashment of the FIR on the basis of settlement was held as not sustainable in the eye of law.

34. From the above discussion, it is clear that the Court considering the nature of offence and the fact that the parties have amicably settled their dispute and the victim has willingly consented to the nullification of criminal proceedings, can quash such proceedings in exercise of its inherent powers under Section 482 Cr.P.C. even if the offences are non-compoundable. The Court can indubitably evaluate the consequential effects of the offence beyond the body of an individual and thereafter adopt a pragmatic approach, to ensure that the felony, even if goes unpunished, does

not tinker with or paralyze the very object of the administration of criminal justice system.

35. It has further held that criminal proceedings involving non-heinous offences or where the offences are predominantly of a private nature, can be quashed. The cases where compromise has taken place, this Court under inherent power ought to exercise such discretion with rectitude, keeping in view the circumstances surrounding the incident, the fashion in which the compromise has been arrived at, and with due regard to the nature and seriousness of the offence, besides the conduct of the accused, before and after the incidence.

36. This Court is of the opinion that the touchstone for exercising the extraordinary power under Section 482 Cr.P.C. would be to secure the ends of justice. There can be no hard and fast line constricting the power of the Court to do substantial justice. A restrictive construction of inherent powers under Section 482 Cr.P.C. may lead to rigid or specious justice, which in the given facts and circumstances of a case, may rather lead to grave injustice. On the other hand, in cases where heinous offences have been proved against perpetrators, no such benefit ought to be extended, as has been observed by the Apex Court in the case of **Narinder Singh & Ors. vs. State of Punjab & Ors. and Laxmi Narayan (Supra)**.

37. In other words, grave or serious offences or offences which involve moral turpitude or have a harmful effect on the social and moral fabric of the society or involve matters concerning public policy, cannot be construed between two individuals or groups only, for such

offences have the potential to impact the society at large. Effacing abominable offences through quashing process would not only send a wrong signal to the community but may also accord an undue benefit to unscrupulous habitual or professional offenders, who can secure a 'settlement' through duress, threats, social boycotts, bribes or other dubious means. It is well said that "let no guilty man escape, if it can be avoided.

38. It is profitable to reproduce a passage from **Shimbu vs. State of Haryana**¹⁰, wherein a three-Judge Bench has held that a compromise entered into between the parties cannot be construed as a leading factor based on which proceedings can be quashed. It has further been held that rape is a non-compoundable offence and it is an offence against the society and is not a matter to be left for the parties to compromise and settle. Since the Court cannot always be assured that the consent given by the victim in compromising the case is a genuine consent, there is every chance that she might have been pressurized by the convicts or the trauma undergone by her all the years might have compelled her to opt for a compromise.

39. In a case of rape or attempt of rape, the conception of compromise under no circumstances can really be thought of. These are crimes against the body of a woman which is her own temple. These are offences which suffocate the breath of life and sully the reputation. And reputation, needless to emphasise, is the richest jewel one can conceive in life. No one would allow it to be extinguished. When a human frame is defiled, the "purest treasure", is lost. Dignity of a woman is a part of her non-perishable and immortal self and no

one should ever think of painting it in clay. There cannot be a compromise or settlement as it would be against her honour which matters the most. It is sacrosanct. Sometimes solace is given that the perpetrator of the crime has acceded to enter into wedlock with her which is nothing but putting pressure in an adroit manner; and we say with emphasis that the Courts are to remain absolutely away from this subterfuge to adopt a soft approach to the case, for any kind of liberal approach has to be put in the compartment of spectacular error.

40. In the case of **Shyam Narain vs. State (NCT of Delhi)**, the Apex Court has gone to the extent of sum that an attitude reflects lack of sensibility towards the dignity, the elan vital, of a woman. Any kind of liberal approach or thought of mediation in this regard thoroughly and completely sans legal permissibility.

41. At this juncture, it would be appropriate to refer to two authorities, namely, **Baldev Singh v. State of Punjab and Ravindra vs. State of Madhya Pradesh. Baldev Singh (supra)** was considered by the three-Judge Bench in **Shimbhu (supra)** and in that case it has been stated that:-

“18.1. In **Baldev Singh v. State of Punjab**, though the courts below awarded a sentence of ten years, taking note of the facts that the occurrence was 14 years old, the appellants therein had undergone about 3½ years of imprisonment, the prosecutrix and the appellants married (not to each other) and entered into a compromise, this Court, while considering peculiar circumstances, reduced the sentence to the period already undergone, but enhanced the fine from Rs. 1000 to Rs. 50,000. In the

light of series of decisions, taking contrary view, we hold that the said decision in **Baldev Singh v. State of Punjab** cannot be cited as a precedent and it should be confined to that case.”

42. Hon'ble Supreme Court in **Narinder Singh and others vs. State of Punjab and another**¹¹, has specifically held that the matter under Section 376 I.P.C. is also such an offence, which, though committed in respect of a particular victim, cannot be termed to be a private dispute between the parties. It has serious adverse societal effect. Therefore, any proceeding on the basis of alleged compromise of the accused vis-a-vis the victim cannot be quashed.

43. This principal of law also came to be reiterated recently by Hon'ble Supreme Court in **Daxaben vs. State of Gujarat and others**¹² wherein the Hon'ble Supreme Court in Paragraphs No.34, 38, and 47 has held as under:-

"34. In **Inder Mohan Goswami v. State of Uttaranchal**, (2007) 12 SCC 1, this Court observed:-

"46. The court must ensure that criminal prosecution is not used as an instrument of harassment or for seeking private vendetta or with an ulterior motive to pressurise the accused. On analysis of the aforementioned cases, we are of the opinion that it is neither possible nor desirable to lay down an inflexible rule that would govern the exercise of inherent jurisdiction. Inherent jurisdiction of the High Courts under Section 482 CrPC though wide has to be exercised sparingly, carefully and with caution and only when it is justified by the tests specifically laid down in the statute itself and in the aforementioned cases. In view of the settled

legal position, the impugned judgment cannot be sustained."

38. However, before exercising its power under Section 482 of the Cr.P.C. to quash an FIR, criminal complaint and/or criminal proceedings, the High Court, as observed above, has to be circumspect and have due regard to the nature and gravity of the offence. Heinous or serious crimes, which are not private in nature and have a serious impact on society cannot be quashed on the basis of a compromise between the offender and the complainant and/or the victim. Crimes like murder, rape, burglary, dacoity and even abetment to commit suicide are neither private nor civil in nature. Such crimes are against the society. In no circumstances can prosecution be quashed on compromise, when the offence is serious and grave and falls within the ambit of crime against society.

47. In *State of Madhya Pradesh v. Laxmi Narayan*, (2019) 5 SCC 688, a three-Judge Bench discussed the earlier judgments of this Court and laid down the following principles:-

"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 paras 29.6 and 29.7 of the decision of this Court in *Narinder Singh* [(2014) 6 SCC 466 : (2014) 3 SCC (Cri) 54] 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."

(emphasis supplied)

44. A compromise entered into between the parties cannot be construed as a leading factor based on which lesser punishment can be awarded. Rape is a non-compoundable offence and it is an offence against the society and is not a matter to be left for the parties to compromise and settle. Since the Court cannot always be assured that the consent given by the victim in compromising the case is a genuine consent, there is every chance that she might have been pressurized by the convicts or the trauma undergone by her all the years might have compelled her to opt for a compromise.

45. In "**Shimbhu Vs. State of Haryana**"¹³, the Hon'ble Supreme Court held that rape is a non compoundable offence and it is an offence against the society and is not a matter to be left for the parties to compromise and settle. Since the

Court cannot always be assured that the consent given by the victim in compromising the case is a genuine consent, there is every chance that she might have been pressurized by the convicts or the trauma undergone by her all the years might have compelled her to opt for a compromise. Infact, accepting this proposition will put an additional burden on the victim. The accused may use all his influence to pressurize her for compromise. So, in the interest of justice and to avoid unnecessary pressure/harassment to the victim, it would not be safe in considering the compromise arrived at between the parties in rape cases to be a ground for the court to exercise the discretionary power under proviso to Section 376(2) IPC.

46. In "**State of Madhya Pradesh Vs. Madan Lal**"¹⁴, the Hon'ble Supreme Court held that rape or attempt to rape are crimes against the body of a women which is her own temple. These are the offences which suffocate the breath of life and sully the reputation. Reputation is the richest jewel one can conceive of in life. No one can allow it to be extinguished. When a human frame is defiled, the "Purest Treasure" is lost. Dignity of a woman is a part of her non-perishable and immortal self and no one should ever think of painting it in clay. There cannot be a compromise or settlement as it would be against her honour which matters the most. Sometimes solace is given that the perpetrator of the crime has acceded to enter into wedlock with her which is nothing but putting pressure in an adroit manner. The Apex Court emphasized that, the Courts are to remain absolutely away from this subterfuge to adopt a soft approach to the case, for any kind of liberal approach has to be put in the compartment of spectacular error. Or to put it differently,

it would be in the realm of a sanctuary of error.

47. Thus, it is very well settled that 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. Any compromise between the victim and the offender in relation to such offences, cannot provide for any basis for quashing the criminal proceedings. The inherent power is not to be exercised in those prosecutions which involve heinous and serious offences. Such offences are not private in nature and have a serious impact on 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. The offences under Sections 376 and 392 IPC fall in the category of serious and heinous offences. They are treated as crime against the society and not against individual alone and therefore, the criminal proceeding for the offences under these sections having a serious impact on the society, cannot be quashed in exercise of power under Section 482 of the Code on the ground that the parties have resolved their entire dispute among themselves through compromise/settlement.

48. Any compromise or settlement with respect to the offence of rape, against the honour of a woman, which shakes the very core of her life and tantamounts to a serious blow to her supreme honour, offending both, her esteem and dignity, is not acceptable to this Court.

49. Conversion to another religion basically requires change of faith and belief of personal relations of a major individual of sound mind by his free will, with what he/she regards as Cosmos, his/her Maker or Creator, which he/she believes, regulates the existence of insentient beings and the forces of Universe.

50. Faith and belief in the unity of God and Mahommed to be his/her prophet is the foundation to call a person of another religion that he embraced Islam. Conversion to Islam makes the muslim personal law applicable to such a person.

51. A conversion of religion by an individual to Islam can be said to be *bona fide* if he/she is major and of sound mind and embraces Islam by his/her own freewill and because of his/her faith and belief in the oneness of God (Allah) and prophetic character of Mahommed. If a conversion is not inspired by religion feeling and under gone for its own sake, but is resorted merely with object of creating a ground for some claim of right or as a device adopted for the purpose to avoid marriage or to achieve an object without faith and belief in the unity of God (Allah) and Mahommed to be his prophet, the conversion shall not be *bonafide*. In case of a religion conversion there should be a change of heart and honest conviction in the tenets of new religion in lieu of tenets of the original religion.

52. In the case of **Rev. Stainislaus Vs. State of Madhya Pradesh and others**¹⁵, the Apex Court while considering the constitutional validity of M.P. Dharma Swantantraya Adhiniyam, 1968 has observed as under:-

“.....there is no fundamental right to convert another person to one's own

religion because if a person purposely undertakes the conversion of another person to his religion, as distinguished from his effort to transmit or spread the tenets of his religion, that would impinge on the "freedom of conscience" guaranteed to all the citizens of the country alike."

53. The object of Act, 2020 is to provide for prohibition of unlawful conversion from one religion to another by misrepresentation, force, undue influence, coercion, allurement or by any fraudulent means.

54. In view of the above settled position of law, it is clear that unlawful religious conversion, particularly when achieved through coercion, fraud, or undue influence, is considered a serious offence, in which the Court cannot quash the proceedings on the basis of settlement between the parties.

55. In the case of **Priyanshi @ Km Shamreen and another vs. State of U.P. and 3 Others**¹⁷, the Co-ordinate Bench of this Court has considered the observation made in **Smt. Noor Jahan Begum @ Anjali Mishra & another vs. State of U.P. and 4 Ors.**¹⁸ and held that conversation just for the purpose of marriage is unacceptable. From the Act, 2020 also such conversation just for the purpose of marriage is an offence.

56. Considering the facts and circumstances of the case as well as above stated position of law, the Court finds that the alleged offences under section 376 IPC and Section 3(1) U.P. Conversion Prevention Act, 2020, are serious in nature and non-compoundable, therefore, the instant proceedings cannot be quashed on the basis of compromise between the

parties in exercise of powers conferred under Section 482 Cr.P.C.

57. Accordingly, the present application under Section 482 Cr.P.C. is **dismissed.**

(2025) 3 ILRA 148

**ORIGINAL JURISDICTION
CRIMINAL SIDE**

DATED: ALLAHABAD 06.03.2025

BEFORE

**THE HON'BLE MRS. MANJU RANI
CHAUHAN, J.**

Application U/S 482 No. 25836 of 2024

Smt. Suman Prajapati **...Applicant**
Versus
State of U.P. & Anr. **...Opposite Parties**

Counsel for the Applicant:
Lalji Yadav, Yashpal Yadav

Counsel for the Opposite Parties:
G.A., Sanjay Kr. Srivastava

(A) Criminal Law - Cognizance on police report - Informant's right to notice - Code of Criminal Procedure, 1973 - Sections 173(2)(ii) , 190(1)(b) & 319 - Power to proceed against other persons appearing to be guilty of offence - Principles of natural justice - Magistrate not bound to issue notice to informant before taking cognizance against charge-sheeted accused - No prejudice is caused to the informant when Magistrate has taken cognizance only against charge-sheeted persons without issuing notice to the informant with respect to the persons named in FIR but not charge-sheeted - there remains scope to summon others under Section 319 Cr.P.C. during trial.(Para - 25 to 31)

FIR lodged by the applicant - charge sheet submitted only against one accused - final