REPORTABLE

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 1489 of 2012

Ramgopal & Anr. ..... Appellant(s)

VERSUS

The State of Madhya Pradesh ..... Respondent

WITH

CRIMINAL APPEAL NO.1488 of 2012

Krishnappa & Ors. ..... Appellant(s)

VERSUS

State of Karnataka ..... Respondent

JUDGMENT

Surya Kant, J.

These two Criminal Appeals, No. 1489 of 2012 emanating from the judgment and order dated 27th November, 2009 of the High Court of Madhya Pradesh, Gwalior Bench and No. 1488 of 2012 arising out judgment and order dated 9th January, 2009 passed by the High Court of Karnataka, though, pertain to two different and distinct

occurrences, but are proposed to be disposed of by way of a common order as the short question of law involved in both these appeals is identical.

BRIEF FACTS OF CRIMINAL APPEAL NO. 1489 OF 2012

2. The prosecution version, arising out of FIR dated 3rd November 2000, Police Station Ambah, Morena, M.P. is that on account of certain monetary dispute, the Appellants abused and assaulted Padam Singh (Complainant). Appellant No.1 is alleged to have struck the Complainant with a *pharsa*, which resultantly cut off the little finger of his left hand. Appellant No.2 also struck lathi blows on the body of the Complainant. Appellants were thereafter committed for trial under Sections 294, 323 and 326 read with 34 of Indian Penal Code, 1860 (hereinafter, 'IPC') and Section 3 of the Prevention of Atrocities (Scheduled Caste and Scheduled Tribes) Act, 1989. Upon analyzing the evidence, the Learned Judicial Magistrate(FC), Ambah, convicted the Appellants under Sections 294, 323 and 326 read with 34 IPC with a maximum sentence of three years under Section 326 read with 34 IPC. They were acquitted of the remaining charges.

3. The Appellants assailed their conviction before the Court of Additional Sessions Judge, Ambah. During the pendency of that Appeal, the Appellants and the Complainant reconciled their

difference(s) and a compromise ensued between them on 13th September 2006. Learned Sessions Judge took notice of the settlement, moved jointly by the parties, and compounded the offences under Sections 294 and 323 read with 34 IPC, acquitting the Appellants of the same. The Court, nevertheless, maintained their conviction under Section 326 read with 34 IPC, since the said offence is `non-compoundable' within the scheme of Section 320 Cr.P.C. Learned Additional Sessions Judge, taking into consideration the settlement between the parties, reduced the quantum of sentence from Rigorous Imprisonment of three years to one year. Still aggrieved, the Appellants preferred a Criminal Revision before the High Court of Madhya Pradesh, Gwalior Bench, challenging their conviction and sentence. Alternatively, they sought compounding of offence under Section 326 IPC in light of the compromise. However, such a prayer was not acceded to by the High Court, re-iterating that the offence is 'non-compoundable'. The High Court, even so, further reduced the duration of imprisonment to the period already undergone by the Appellants. The Appellants are now before this Court, seeking compounding of their *Actus Reus* under Section 326 IPC in view of the settlement between parties.

BRIEF FACTS OF CRIMINAL APPEAL NO. 1488 OF 2012

4. The incident is charted from FIR No. 24 of 1995, Police Station Thirthahalli, Shimoga, Karnataka, dated 28th January 1995. As per the allegations, the Appellants and the other accused persons, all of whom belong to the same family, were aggrieved against the Complainant as he had imparted some inculpatory information to the Forest Department officials, which had caused financial loss to them. The disgruntled Appellants lured the Complainant to their house and assaulted him with weapons after tying his hands to a window. It is further alleged that Accused Nos. 5 to 7 instigated the Appellants to assault the Complainant, besides kicking him with fists and legs. The Complainant's family members found him semi-conscious lying in a pit near their house.

5. The Appellants, together with Accused Nos. 5 and 7 were tried and convicted under Sections 143, 144, 147, 148, 342, 324 and 326 read with 149 IPC and the maximum sentence awarded to them was two years simple imprisonment under Section 326 IPC. The trial against Accused No. 6 was split after filing of the chargesheet, since he remained absconding. The Appellants along with the co-accused, approached the High Court of Karnataka, challenging their conviction and sentence. The High Court acquitted Accused Nos. 5 & 7 finding insufficient evidence to sustain their involvement in the subject crime, but maintained the conviction and sentence *qua* the Appellants. In

this case as well, the parties entered into a compromise. The said compromise was, however, not placed on record before the Trial Court or the High Court. The Appellants are now seeking 'compounding of the offences' and their consequential acquittal on the basis of the compromise reached between them and the Complainant-victim.

6. When both these appeals came up for hearing, a two-Judge Bench of this Court, *vide* common order dated 21st September 2012 granted leave to appeal. The Bench further directed the appeals to be listed after the disposal of reference made in ***Gian Singh vs. State of Punjab***[1], where a 3-Judge Bench of this Court, at that point in time, was considering the issue as to whether `non-compoundable' offences can be `compounded' by a Court or in the alternative, whether the High Court in exercise of its inherent powers under Section 482 Cr.P.C. could quash non-compoundable offences, based on a compromise/settlement arrived at between the accused and the victim-complainant, and if so, under what circumstances.

7. The Appellants, in both the appeals, thus seek the Court to invoke powers under Article 142 of the Constitution to do complete justice to them.

ANALYSIS:

1 (2012) 10 SCC 303

8. We have heard learned Counsels for the Appellants and the State(s) at a considerable length. The questions of law concerning the power of a High Court to quash proceedings emanating from non-compoundable offences which have no impact or depraving effect on the society at large, on the basis of a compromise between the accused and the victim-complainant, are no longer *res integra* and the same have been authoritatively settled by this Court in affirmative. Learned Counsel for the Appellants and Complainant(s) in both the appeals have, therefore, heavily counted on the compromise/settlement between the parties and seek quashing of the criminal prosecution in its entirety, Learned State Counsel(s) without controverting the factum of compromise, vehemently opposed such a recourse and asserted that no substantial question of law is involved in these appeals.

9. Before scrutinizing the facts of these cases and rephrasing the scope of powers exercisable by a High Court under Section 482 Cr.P.C., it would be apropos to illuminate the following principles laid down by a 3-Judge Bench of this Court in ***Gian Singh (Supra)*** 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)***

10. The compendium of these broad fundamentals structured in more than one judicial precedent, has been recapitulated by another 3-Judge Bench of this 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*

[2] (2019) 5 SCC 688, ¶ 15

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)

11. True it is 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. Any such attempt by the court would amount to alteration, addition and modification of Section 320 Cr.P.C, which is the exclusive domain of Legislature. 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. The High Court, keeping in view the peculiar facts and circumstances of a case and for justifiable reasons can press Section 482 Cr.P.C. in aid to prevent abuse of the process of any Court and/or to secure the ends of justice.

12. The High Court, therefore, having regard to the nature of the offence and the fact that 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 High 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.

13. It appears to us that criminal proceedings involving non-heinous offences or where the offences are pre-dominantly of a private nature, can be annulled irrespective of the fact that trial has already been concluded or appeal stands dismissed against conviction. Handing out punishment is not the sole form of delivering justice. Societal method of applying laws evenly is always subject to lawful exceptions. It goes without saying, that the cases where compromise is struck post-conviction, the High Court 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. The touchstone for exercising the extra-ordinary 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 High 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 cautiously observed by this Court in ***Narinder Singh & Ors. vs. State of Punjab & Ors.***[3] ***and Laxmi Narayan (Supra)***.

14. 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 betwixt 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

[3] (2014) 6 SCC 466, ¶ 29

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."

15. Given these settled parameters, the order of the High Court of Madhya Pradesh culminating into Criminal Appeal No. 1489 of 2012, to the extent it holds that the High Court does not have power to compound a non-compoundable offence, is in ignorance of its inherent powers under Section 482 Cr.P.C. and is, thus, unsustainable. However, the judgment and order dated 9th January, 2009 of the High Court of Karnataka, giving rise to Criminal Appeal No. 1488 of 2012 cannot be faulted with on this count for the reason that the parties did not bring any compromise/settlement to the notice of the High Court.

16. Let us now delve into the nature of powers vested in this Court under Article 142 of the Constitution, with an intent to do complete justice. It would be *ad rem* to outrightly cite the Constitution Bench decision in ***Union Carbide Corporation & Ors. vs. Union of India & Ors.***[4], where this Court has ruled as follows:

> ***"83. It is necessary to set at rest certain misconceptions in the arguments touching the scope of the powers of this Court under Article 142(1) of the Constitution. These issues are***

[4] (1991) 4 SCC 584, 83

matters of serious public importance. The proposition that a provision in any ordinary law irrespective of the importance of the public policy on which it is founded, operates to limit the powers of the apex Court under Article 142(1) is unsound and erroneous. *In both Garg [1963 Supp 1 SCR 885, 899-900 : AIR 1963 SC 996] as well as Antulay cases [(1988) 2 SCC 602 : 1988 SCC (Cri) 372] the point was one of violation of constitutional provisions and constitutional rights. The observations as to the effect of inconsistency with statutory provisions were really unnecessary in those cases as the decisions in the ultimate analysis turned on the breach of constitutional rights.* ***We agree with Shri Nariman that the power of the Court under Article 142 insofar as quashing of criminal proceedings are concerned is not exhausted by Section 320 or 321 or 482 CrPC or all of them put together. The power under Article 142 is at an entirely different level and of a different quality. Prohibitions or limitations or provisions contained in ordinary laws cannot, ipso facto, act as prohibitions or limitations on the constitutional powers under Article 142.*** *Such prohibitions or limitations in the statutes might embody and reflect the scheme of a particular law, taking into account the nature and status of the authority or the court on which conferment of powers — limited in some appropriate way — is contemplated. The limitations may not necessarily reflect or be based on any fundamental considerations of public policy. Sri Sorabjee, learned Attorney General, referring to Garg case [1963 Supp 1 SCR 885, 899-900 : AIR 1963 SC 996] , said that limitation on the powers under Article 142 arising from "inconsistency with express statutory provisions of substantive law" must really mean and be understood as some express prohibition contained in any substantive statutory law. He suggested that if the expression 'prohibition' is read in place of 'provision' that would perhaps convey the appropriate idea. But we think that such prohibition should also*

be shown to be based on some underlying fundamental and general issues of public policy and not merely incidental to a particular statutory scheme or pattern. It will again be wholly incorrect to say that powers under Article 142 are subject to such express statutory prohibitions. That would convey the idea that statutory provisions override a constitutional provision. ***Perhaps, the proper way of expressing the idea is that in exercising powers under Article 142 and in assessing the needs of "complete justice" of a cause or matter, the apex Court will take note of the express prohibitions in any substantive statutory provision based on some fundamental principles of public policy and regulate the exercise of its power and discretion accordingly. The proposition does not relate to the powers of the Court under Article 142, but only to what is or is not 'complete justice' of a cause or matter and in the ultimate analysis of the propriety of the exercise of the power. No question of lack of jurisdiction or of nullity can arise****."*

(Emphasis Applied)

17. The afore-quoted precept has been consistently followed by this Court in numerous subsequent decisions, including in ***Monica Kumar & Anr. vs. State of U.P.***[5]***, Manohar Lal Sharma vs. Union of India***[6] and ***Supreme Court Bar Association vs. Union of India***[7], inter-alia, reiterating that:

> *"47.* The plenary powers of this Court under Article 142 of the Constitution are inherent in the Court and are *complementary* to those powers which

[5] (2008) 8 SCC 781, ¶ 45
[6] (2014) 2 SCC 532, ¶ 43
[7] (1998) 4 SCC 409, ¶ 47

> are *specifically conferred on the Court by various statutes though are not limited by those statutes*. These powers also exist independent of the statutes with a view to do complete justice between the parties. *These powers are of very wide amplitude and are in the nature of supplementary powers. This power exists as a separate and independent basis of jurisdiction apart from the statutes. It stands upon the foundation and the basis for its exercise may be put on a different and perhaps even wider footing, to prevent injustice in the process of litigation and to do complete justice between the parties*. ***This plenary jurisdiction is, thus, the residual source of power which this Court may draw upon as necessary whenever it is just and equitable to do so and in particular to ensure the observance of the due process of law, to do complete justice between the parties, while administering justice according to law. There is no doubt that it is an indispensable adjunct to all other powers and is free from the restraint of jurisdiction and operates as a valuable weapon in the hands of the Court to prevent "clogging or obstruction of the stream of justice"****…"*
>
> ***(Emphasis Applied)***

18. It is now a well crystalized axiom that the plenary jurisdiction of this Court to impart complete justice under Article 142 cannot *ipso facto* be limited or restricted by ordinary statutory provisions. It is also noteworthy that even in the absence of an express provision akin to Section 482 Cr.P.C. conferring powers on the Supreme Court to abrogate and set aside criminal proceedings, the jurisdiction exercisable under Article 142 of the Constitution embraces this Court with scopious powers to quash criminal proceedings also, so as to

secure complete justice. In doing so, due regard must be given to the overarching objective of sentencing in the criminal justice system, which is grounded on the sub-lime philosophy of maintenance of peace of the collective and that the rationale of placing an individual behind bars is aimed at his reformation.

19. We thus sum-up and hold that as opposed to Section 320 Cr.P.C. where the Court is squarely guided by the compromise between the parties in respect of offences 'compoundable' within the statutory framework, the extra-ordinary power enjoined upon a High Court under Section 482 Cr.P.C. or vested in this Court under Article 142 of the Constitution, can be invoked beyond the metes and bounds of Section 320 Cr.P.C. Nonetheless, we reiterate that such powers of wide amplitude ought to be exercised carefully in the context of quashing criminal proceedings, bearing in mind: **(i)** Nature and effect of the offence on the conscious of the society; **(ii)** Seriousness of the injury, if any**; (iii)** Voluntary nature of compromise between the accused and the victim; & **(iv)** Conduct of the accused persons, prior to and after the occurrence of the purported offence and/or other relevant considerations.

20. Having appraised the afore-stated para-meters and weighing upon the peculiar facts and circumstances of the two appeals before

us, we are inclined to invoke powers under Article 142 and quash the criminal proceedings and consequently set aside the conviction in both the appeals. We say so for the reasons that:

Firstly, the occurrence(s) involved in these appeals can be categorized as purely personal or having overtones of criminal proceedings of private nature;

Secondly, the nature of injuries incurred, for which the Appellants have been convicted, do not appear to exhibit their mental depravity or commission of an offence of such a serious nature that quashing of which would override public interest;

Thirdly, given the nature of the offence and injuries, it is immaterial that the trial against the Appellants had been concluded or their appeal(s) against conviction stand dismissed;

Fourthly, the parties on their own volition, without any coercion or compulsion, willingly and voluntarily have buried their differences and wish to accord a *quietus* to their dispute(s);

Fifthly, the occurrence(s) in both the cases took place way back in the years 2000 and 1995, respectively. There is nothing on record to evince that either before or after the purported compromise, any untoward incident transpired between the parties;

Sixthly, since the Appellants and the complainant(s) are residents of the same village(s) and/or work in close vicinity, the quashing of criminal proceedings will advance peace, harmony, and fellowship amongst the parties who have decided to forget and forgive any ill-will and have no vengeance against each other; *and*

Seventhly, the cause of administration of criminal justice system would remain un-effected on acceptance of the amicable settlement between the parties and/or resultant acquittal of the Appellants; more so looking at their present age.

CONCLUSION:

CRIMINAL APPEAL NO.1489 OF 2012

21. Consequently, and for the reasons stated above, read with the settlement dated 13th September 2006, we find it appropriate to invoke our powers under Article 142 of the Constitution and quash the criminal proceedings in the aforesaid case. As a sequel thereto, all offences emanating out of the FIR leading to Criminal Appeal No. 1489 of 2012 stand annulled, and the judgment and orders passed by the trial court, appellate court and the High Court are set aside. Resultantly, the Appellants shall be deemed to have been acquitted of the charged offences for all intents and purposes.

22. In so far as this appeal is concerned, we note that even though the Learned Counsel(s) for the Appellants and the Complainant-victim have jointly stated before this Court that the parties have settled their dispute(s), but no formal settlement has either been brought on record nor has it been even clarified that such a deed of settlement has been recorded. Admittedly, the factum of compromise/settlement between the parties has been raised for the first time before this Court. In the absence of any proof of settlement, we find ourselves hard-pressed to take cognizance of the asseverated compromise. We, therefore, direct both the Appellants as well as the complainant-victim to appear before the Chief Judicial Magistrate, Shimoga and submit their settlement, if any, in writing within a period of three months. The C.J.M. shall send a Report to this Court immediately, recording his satisfaction with regard to the genuineness of the compromise. In the event, the said Report would reflect a *bona-fide* settlement between the parties, the present appeal shall also be deemed to have been disposed of in same terms as Criminal Appeal No. 1489 of 2012, referred to above. Further, the incontrovertible corollary in such event would be that the Appellants shall be treated to have been acquitted of all the charged offences for all intents and purposes. On the other hand, if no formal settlement is placed before C.J.M., Shimoga within the stipulated

period or the Report reflects to the contrary, the criminal appeal shall stand as dismissed as no other substantial question of law is raised or involved in this appeal.

23. Both the Criminal Appeals are ***disposed of*** in above terms.

..... CJI.
(N.V. RAMANA)

..... J.
(SURYA KANT)

NEW DELHI
DATED : 29.09.2021