

**IN THE HIGH COURT OF HIMACHAL PRADESH
AT SHIMLA**

Cr.MMO No.171 of 2024

Decided on: 03rd April, 2024

....Petitioner

Versus

State of Himachal Pradesh & anr.Respondent

Coram

Hon'ble Mr. Justice Ranjan Sharma, Judge

¹ *Whether approved for reporting? Yes*

For the petitioner : Mr. Manoj Pathak and
Mr. Harsh Shroal, Advocates.

For the respondents : Mr. Ajit Sharma, Deputy
Advocate General, for
respondent No.1.

HC Anil No.208, I/O P.S.
Kotkhai, District Shimla, H.P.
present in person along with
records.

Ranjan Sharma, Judge (Oral)

Petitioner, namely _____, has come up in the
instant petition under Section 482 of the Code of
Criminal Procedure ***[hereinafter referred to as***
'Cr.P.C.'] seeking quashing of *FIR No.85 of 2023, dated*
10.11.2023 for the commission of offences punishable

¹ *Whether reporters of Local Papers may be allowed to see the judgment? Yes*

under Sections 376 of the Indian Penal Code ***[hereinafter referred to as 'IPC']*** and Section 4 of the Protection of Children from Sexual Offences ***[hereinafter referred to as 'POCSO']*** Act, registered at Police Station Kotkhai, District Shimla [H.P.] as well as consequent proceedings pending before the learned Court below.

2. Quashing of FIR and criminal-judicial proceedings arising therefrom, has been prayed for, on the ground, that due to the intervention of the family members of petitioner as well as the respondent No.2-Victim ['X'], the matter has been amicably settled. It is averred that the petitioner has been falsely roped in, at the instance of others who were inimical against the petitioner and the respondent No.2-Victim ['X'], who have solemnized their marriage even prior to the registration of FIR dated 10.11.2023. It is further averred that the petitioner and the respondent No.2-Victim ['X'] have no grudges and they have cordial relations with each other. Petitioner has stated that his conduct is unblemished

and in these circumstances reliance has been placed upon decision in **Cr. MMO No.648 of 2023**, case titled **Ranjeet Kumar versus State of H.P & Ors.**, decided on 08.12.2023, wherein the accused had been charged for offences punishable under Sections 363, 376, 212 and 120-B of the Indian Penal Code and Section 4 of the POCSO Act.

3. Upon issuance of notice on 21.03.2024, this Court directed the respondent(s) No.1 & 2 to file a reply, to the instant petition. As a sequel to this, the State Authorities have filed a Status Report dated 03.04.2024 on the Instructions of Station House Officer, In-charge, Police Station, Kotkhai, District Shimla, narrating the sequence of events that the FIR No.85 of 2023 was registered at the instance of the complainant, namely, Smt. . It was further mentioned that after the registration of FIR, the petitioner was arrested on 10.11.2023. The State Authorities have stated that the petitioner and respondent No.2-Victim ['X'] were in live-in

relationship and they have solemnized marriage with each other and have an offspring out of their wedlock. The Status Report does not contain any material revealing any objection to the quashing of FIR and the proceedings accruing therefrom, except that the investigation has been completed and the Challan has been presented before the Learned Sessions Judge, Shimla on 21.12.2023.

4. In order to test the veracity of the claim, this Court passed an order on 21st March, 2024, directing the Respondent No.2-Victim ['X'] to appear in person. In compliance thereto she appeared along with the father, namely Shri [] and both of them stated that the respondent No.2 and petitioner [] have no grudges against each other. The matter was then listed on 27th March, 2024, on which date, the respondent No.2-Victim ['X'] made a statement before this Court, that she has married the petitioner- [] and she has no grudges against him. Even the complainant,

had appeared before this Court on 27th March, 2024 and she has also corroborated that the petitioner [] and the Respondent No.2-Victim ['X'] have married and they have cordial relations with each other. The complainant further states that both have an offspring from their marital relations. The complainant as well as the Respondent No.2-Victim ['X'] have stated that the FIR and the proceedings arising therefrom may be set-aside to achieve the ends of justice, as the continuance of criminal proceedings shall lead to bitterness amongst them or may lead towards friction and resurgence of enmity inter se, despite the fact, that as on day, the petitioner and respondent No.2 are husband and wife, with one child and have cordial relations also.

5. The statement of the complainant and the victim [respondent No.2] reveal that the petitioner and respondent No.2 are living happily and they have cordial relation and have also given birth to offspring. She has

also stated that she does not intend to pursue her complaint. Further, from a perusal of the petition, it is evident that petitioner and respondent No.2 are husband and wife, hence in order to maintain cordial relationship *inter se* family of petitioner and respondent No.2, it would be appropriate, if the FIR in question is quashed.

6. While dealing with the matter, though the Hon'ble Supreme Court mandates that sexual offences can never be subject matter of compromise but in peculiar fact-situation, where the accusation was made but both had live-in relation, which turn into solemnization of marriage and both gave birth to a child and had no grudges, therefore, in order to bring peace and to promote harmony amongst he married couple having a child, therefore, it would not be appropriate to allow the prosecution to continue in such cases, as the same would only result in disturbance in their happy family life and ends of justice would not be served.

7. The scope of power exercisable under Section 482 Cr.P.C., when a prayer is made out for quashing criminal proceedings involving non-compoundable offences, on account of settlement between the parties, has come up for consideration, repeatedly, before the Hon'ble Supreme Court and we would refer to some of those decisions:

8(i). In **Ramgopal vs. State of Madhya Pradesh (2022) Cr.L.J. 2801**, the Hon'ble Supreme Court while dealing with the scope of Section 482 Cr.P.C. held that limited jurisdiction to compound an offence within framework of Section 320 Cr.P.C. is not an embargo against invoking inherent power by the High Court vested in it under Section 482 Cr.P.C. and it was observed as under:-

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 3Judge 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 pre-dominantly 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 Page 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.”

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

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 predominantly 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 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 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 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.
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 extraordinary 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.

8(ii). In **K. Dhandapani vs. The State by the Inspector of Police, Cr. A. No. 796 of 2022**, decided on 09.05.2022, the Hon'ble Supreme Court set aside the conviction and sentence of an accused who raped his own niece and later married her. The accused was working as woodcutter on daily wages in a private factory. An FIR was lodged against him for committing rape of his niece on a false promise of marriage under Section 5(j)(ii) read with Section 6, 5(I) read with Sections 6 and 5(n), read with Section 6 of the POCSO Act. The Trial Court convicted and sentenced him to ten years of rigorous imprisonment, which was upheld by the High Court. Aggrieved thereby the accused approached the Hon'ble Supreme Court. The accused submitted that since he has, in fact, married the prosecutrix and they have two children, it would not be in the interest of justice to disturb their family life.

The State opposed the grant of any relief to the accused, contended that the prosecutrix was aged 14 years on the date of offence and that the marriage might only be for purpose of escaping punishment. The Court taking note of the custom in Tamil Nadu, which permits the marriage of a girl with her maternal uncle and the statement of the prosecutrix that she is leading a happy married life with the appellant, set aside the conviction observing that “This Court cannot shut its eyes to the ground reality and disturb the happy family life of the appellant and the prosecutrix”.

8(iii). In **Kapil Gupta vs. State of NCT of Delhi & Another, SLP (Crl.) No. 5806 of 2022**, 2022 SCC Online SC 1030, the Hon'ble Supreme Court, quashed the FIR registered under Section 376 of IPC, as the matter had been amicably settled between the accused and the victim holding that though ordinarily, cases under Section 376 of IPC should not be quashed, the Court is not powerless in exercising the extraordinary

jurisdiction to quash the proceedings in the facts and circumstances of particular case. It was further held that while exercising the power, the Court has also to take into consideration whether settlement between the parties is going to result in harmony between them, which may improve their mutual relationship and also the stage of the proceedings. There the Hon'ble Supreme Court was hearing an appeal challenging the judgment of High Court of Delhi dismissing the application filed by the victim for quashing the proceedings under Section 376 of IPC, by invoking Section 482 Cr.P.C. While allowing the appeal, the Hon'ble Supreme Court observed that since the victim herself was not supporting the prosecution case, even if, the trial was allowed to be go-ahead, it would attain nothing else than an acquittal. Whereas, if the request for quashing is not allowed, it will amount to adding one more criminal case to the already overburdened criminal Courts.

8(iv). In **Mandar Deepak Pawar vs. State of**

Maharashtra 2022 (3) DMC 303, the Hon'ble Supreme Court while dealing with the case of quashing of FIR where the parties were in consensual physical relationship, the Court observed as under:-

"The appellant and respondent No.2 were undisputedly in a consensual relationship from 2009 to 2011 (or 2013 as stated by the respondent No.2). It is the say of the respondent No.2 that the consensual physical relationship was on an assurance of marriage by the appellant. The complaint has been filed only in 2016 after three years, pursuant where to FIR dated 16.12.2016 was registered under Section 376 and 420, IPC. On hearing learned counsel for parties, we find ex facie the registration of FIR in the present case is abuse of the criminal process. The parties chose to have physical relationship without marriage for a considerable period of time. For some reason, the parties fell apart. It can happen both before or after marriage. Thereafter also three years passed when respondent No.2 decided to register a FIR. The facts are so glaring as set out aforesaid by in us that we have no hesitation in quashing the FIR dated 16.12.2016 and bringing the proceedings to a close. Permitting further proceedings under the FIR would amount to harassment to the appellant through the criminal process itself. We are fortified to adopt this course of action by the judicial view in titled Pramod Suryabhan Pawar Vs. State of Maharashtra & Anr., 2019 9 SCC 608 wherein the factual scenario where complainant was aware that there existed obstacles in marrying the accused and still continued to engage in sexual relations, the Supreme Court quashed the FIR. A distinction was made between a false promise to marriage which is given on understanding by the maker that it will be broken and a breach of promise which is made in good faith but subsequently not fulfilled. This was in the context of Section 375 Explanation 2 and Section 90

of the IPC, 1860. The Criminal appeal is accordingly allowed. Impugned judgment is set aside and the proceedings in pursuance to FIR dated 16.12.2016 stand quashed, leaving parties to bear their own costs."

9. Thus, what can be summarised as the broad principles with regard to the quashing of criminal proceedings on the basis of compromise arrived at between the parties, are as follows:-

- (i) 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;
- (ii) The invocation of the jurisdiction of the High Court to quash a First Information Report or a criminal proceeding on the ground that a settlement has been arrived at between the offender and the victim is not the same as the invocation of jurisdiction for the purpose of compounding an offence. While compounding an offence, the power of the court is governed by the provisions of Section 320 of the Code of Criminal Procedure, 1973. **The power to quash under Section 482 is attracted even if the offence is non-compoundable.**
- (iii) In forming an opinion whether a criminal proceeding or complaint should be quashed in exercise of its jurisdiction under Section 482, the High Court must **evaluate whether the ends of justice would justify the exercise of the inherent power;**
- (iv) While the inherent power of the High Court has a wide ambit and plenitude it has to be exercised;

- (a) to give effect to the order of the Court;
 - (b) to secure the ends of justice; or
 - (c) to prevent an abuse of the process of any court;
- (v) 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;
- (vi) 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;
- (vii) 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;
- (viii) 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.

- (ix) 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;**
- (x) 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**
- (xi) The High Court 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.**
- (xii) 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 extraordinary power enjoined upon High Court under Section 482 Cr.P.C. can be invoked beyond metes and bounds and Section 320 Cr.P.C. Nonetheless, such powers of wide amplitude **ought to be exercised carefully in the context of quashing criminal proceedings bearing in mind;**
 - (i) The nature and effect of the offence on

the consciousness of the society;

- (ii) Seriousness of injury, if any;
 - (iii) Voluntary nature of compromise between the accused and victim;
 - (iv) Conduct of accused; prior to and after the occurrence of the purported offence or other relevant considerations.
- (xiii) The Court to bear in mind that every case is unique and must, therefore, essentially be decided based on its peculiar facts and circumstances. The viability of quashing criminal proceedings on the ground that the accused and the victim had settled the disputes revolves ultimately around the facts and circumstances of each case, therefore, no straight jacket formula can be evolved.
- (xiv) Where the Court has such facts on record, which clearly exhibit that the **criminal prosecution involving non-compoundable sexual offences against women and children result in greater injustice to the victim and its closure will promote well being and the possibility of conviction is remote**, it can indubitably evaluate the consequential effects of the offence beyond the body of an individual and thereafter adopt a pragmatic approach and may very well decide to quash such proceedings upon a compromise arrived at between the accused and the victim, after taking into consideration all the relevant facts and circumstances of the particular case including the nature, magnitude, consequence of the crime and genuineness of the compromise.
- (xv) While **dealing with the petition moved by the parents or guardians of the sexual assault victim to quash the criminal proceedings on the ground of compromise**, the Court must consider whether the allegations prima facie constitutes the ingredients of the offence, whether the settlement is in the best interest of

the minor victim and **whether continuation of the proceedings against the accused and the participation of the minor victim in those proceedings** would adversely affect the mental, physical and emotional well being of the latter.

10. These are only some of the broad principles that are required to be borne in mind while considering the plea to quash criminal proceedings involving non-compoundable sexual offences based on compromise.

11. Besides the above, the Division Bench of this Court in Cr.MMO No.648 of 2023, titled as **Ranjeet Kumar versus State of H.P. & Ors.**, decided on 08.12.2023, has held that even in the accusation under Section 363, 376, 212 & 120-B of IPC and Section 4 of POCSO Act, it has been held that before quashing FIR & consequential proceedings, the Courts must be satisfied after considering the attending facts and circumstances of the case that quashing of proceedings would promote justice for the victim and continuance of the proceedings would cause in justice. It would be appropriate to refer to relevant Paras of the judgment, which reads as under:-

- “42. Therefore, in such circumstances, **compounding of the offence, in our considered opinion would enable both the parties to lead life of respect and dignity in the society. Once, there is no dispute between them,** then obviously the law cannot be so harsh so as to stand as wall between the parties, because the law has to secure the future of the parties, and **continuation of criminal proceedings in such circumstances, would only cause an irreparable harassment and hardship and may even tarnish and spoil the reputation of the victim. The Court proceedings cannot be permitted to degenerate into a weapon of harassment and persecution.** The power to do complete justice is the very essence of every judicial justice dispensation system. It cannot be diluted by distorted perceptions and is not a slave to anything, except to the caution and circumspection, the standards of which the Court sets before it, in exercise of such plenary and unfettered power inherently vested in it while donning the cloak of compassion to achieve the ends of justice. No embargo, be in the shape of Section 320(9) of the Cr.P.C. or any other such curtailment can whittle down the power of the High Court under Section 482 Cr.P.C. to do complete justice.
43. The compromise, in a modern society, is the sine qua non of harmony and orderly behaviour. **It is the soul of justice and if the power under Section 482 of the Cr.P.C. is used to enhance such a compromise** which, in turn, enhances the social amity and reduces friction, then it truly is "finest hour of justice.
46. This Court on the basis of the material placed on record has **satisfied itself that the child victim and her family members have settled the dispute and the victim is now leading a happy and a peaceful married life and, therefore, allowing the prosecution to continue in such case would only result in disturbance in their happy family life, and**

ends of justice in such circumstances would demand that the parties be allowed to compromise. We are further satisfied that such compromise is not a camouflage to escape punishment and the consent given by the victim for compromise is voluntarily. Lastly and more importantly, the Court is satisfied after considering all the facts and circumstances of the case, that quashing the proceedings would promote justice for victim and continuance of the proceedings would otherwise cause injustice. Ordered accordingly.

47. In view of the aforesaid discussion, we have no hesitation to conclude that the view taken by the learned Reference Court is not correct view and is accordingly set aside. On the other hand, the views as taken by the other Hon'ble Single Judges in **Sahil vs. State of Himachal Pradesh, 2022 (2) Him. L.R. (HC) 739 and Criminal Misc. Petition (Main) No. 549 of 2021, titled as Sakshi and others vs. State of H.P. and others**, which are more in tune with what has been observed here-in-above, are the correct views. The reference is answered accordingly.
48. Resultantly, the petition is allowed and the FIR No. 39 of 2020, dated 08.03.2020, registered under Sections 363, 376, 212, 120-B of the IPC and Section 4 of the POCSO Act, with the Police Station Indora, District Kangra, H.P. and all consequential proceedings thereunder are quashed and set aside.”

12. In view of the peculiar facts of the instant case, the petitioner and respondent No.2-Victim [‘X’] had bitterness leading towards the accusation in FIR; but now since the petitioner and respondent No.2 have solemnized their marriage and have an offspring now;

and both have cordial relation and have no grudges against either of them as of now. This Court ensured the presence of the Respondent No.2-Victim ['X'] who corroborated the factum of marriage, an offspring from their wedlock with the petitioner. Even the complainant, on being present this Court has corroborated the factum of their marriage as well as the child born therefrom and the cordial relations *inter se*. In this backdrop, this Court is satisfied that the FIR and the criminal proceedings therefrom need to be quashed and set-aside, so as to meet the ends of justice. Giving a quietus to entire criminal proceedings/action shall promote harmony, orderly behavior and conduct amongst themselves. Any reverse action in continuing with the FIR and criminal proceedings shall lead to reviving bitterness, restoring inimical relations not only amongst themselves but may adversely affect their respective families and relations also. The societal effect of continuing with the proceedings shall lead to tarnishing the reputation,

spoiling her life, irreparable harassment and hardships not only to the Respondent No.2-Victim ['X'], but also his offspring, which can never be the intent of law. Lastly, the continuance of proceedings [in FIR and criminal proceedings therefrom] shall not entail any fruitful result when, the complainant and the Respondent No.2-Victim ['X'] alleged victim have decided not to continue with these proceedings. Even the pendency will lead to cloaking the docket of the State Authorities and the Court(s), knowing that it will end in futile exercise.

In this backdrop, this Court, for reason recorded above, in peculiar facts of this case interdicts and renders the FIR and the consequential criminal proceedings as inoperative for all intents and purposes, qua the petitioner and respondent No.2 herein.

13. Accordingly, the instant petition is allowed. The FIR No.85 of 2023 dated 10.11.2023, registered under Sections 376 of the Indian Penal Code and Section 4 of the Protection of Children from Sexual

Offences Act, registered at Police Station Kotkhai, District Shimla [H.P.] is quashed; and even the consequent judicial proceedings are set aside.

14. The petitioner, who is in custody, in District Jail Kaithu, District Shimla [H.P.] be released, as per norms, forthwith. Release warrant be prepared accordingly.

The instant petition as well as all the pending miscellaneous application(s), if any, shall stand disposed of.

(Ranjan Sharma)
Judge

April 03, 2024
(Shivender)

**TARUN
MAHAJAN**

Digitally signed by TARUN MAHAJAN
DN: C=IN, O=HIGH COURT OF HIMACHAL PRADESH, OU=HIGH
COURT OF HIMACHAL PRADESH SHIMLA, Phone=
887aba774dfe8f4f3e95a41c7aa2abacb4ecee8f82efd8f56ec39f8e6b442b
68, PostalCode=171001, S=Himachal Pradesh, SERIALNUMBER=
3ff6ebe501e8d7c8d73d0e5a5294bacca3f198d7d66b105bbf50717967310
9f5, CN=TARUN MAHAJAN
Reason: I am the author of this document
Location: 12345678
Date: 2024.04.09 15:56:57+05'30'
Foxit PDF Reader Version: 2023.2.0