



WHETHER THE PROCEEDINGS CAN BE QUASHED UNDER SEC.482CR.P.C. UPON SETTLEMENT OF THE DISPUTE BETWEEN THE PARTIES IN CASES INVOLVING NON-COMPOUNDABLE OFFENCES

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Introduction

The Supreme Court of India in the case of **Ramgopal v. State of M.P.**¹ in a brief order, observed thus: “There are several offences under the IPC that are currently non-compoundable. These include offences punishable under Section 498-A, Section 326, etc. of the IPC. Some of such offences can be made compoundable by introducing a suitable amendment in the statute. We are of the opinion that the Law Commission of India could examine whether a suitable proposal can be sent to the Union Government in this regard. Any such step would not only relieve the courts of the burden of deciding cases in which the aggrieved parties have themselves arrived at a settlement, but may also encourage the process of re-conciliation between them. We, accordingly, request the Law Commission and the Government of India to examine all these aspects and take such steps as may be considered feasible”.

Again, the same learned Judges in an Order passed later in **Crl. appeal No. 433 of 2004 (Diwaker Singh vs. State of Bihar)** made similar observations which are extracted hereunder: “Further, we are of the opinion that Section 324 IPC and many other offences should be made compoundable. We have already referred to the Law Commission of India and the Ministry of Law & Justice, Government of India our suggestion that suitable amendments should be made in the Code of Criminal Procedure for making several offences which are presently treated as non-compoundable under Section 320 Cr.P.C. as compoundable. This will greatly reduce the burden of the courts. The Law Commission of India and the Ministry of Law & Justice, Government of India may also examine this suggestion. The Law Commission may also examine several other provisions of the Indian Penal Code and other statutes in order to recommend that they may also be made compoundable even if they are presently non-compoundable.”²

Where the marital partners have subsequently settled their disputes and differences,³ even if the offences being non-compoundable cannot be compounded, the proceedings can be quashed under section 482 Cr.P.C. upon a compromise entered into between the parties.⁴ Every crime is considered to be an offence against the society as a whole and not merely against an individual.

In **B.S. Joshi v. State of Haryana**⁵, the Apex Court observed that in S. 482 of the Code, High Court can quash a criminal proceeding initiated under section 498-A of the Indian Penal Code if parties to the matrimonial dispute have reached a settlement. The fact that under section 320 Cr.P.C. section 498-A of the Indian Penal Code is not listed as a compoundable offence cannot come in the way of High Court quashing the criminal proceedings with a view to secure the ends of justice. But, in **Gian Singh v. State of Punjab**⁶, a two-judge bench of the Supreme Court comprising of Markandey Katju and Gyan Sudha Misra JJ. recorded its reservations for the kind of approach adopted by the Supreme Court in B.S. Joshi and some other cases, indirectly allowing compounding of non-compoundable offences. The bench was of the view that this amounts to amending the law and therefore recommended that the papers of this case should be placed before the Chief Justice of India for him to constitute a larger bench to settle this issue. The controversy was finally resolved by a three judge bench of the Supreme Court in **Gian Singh v. State of Punjab** the Court in its judgment speaking through R. M. Lodha J. (as he then was) held that power of High Court under section 482 Cr.P.C. and the power of a criminal court under section 320 Cr.P.C. dealing with the compounding of offences are very different. Therefore, the power to quash the criminal proceedings in the exercise of inherent powers on the ground that parties have reached a compromise cannot be read subject to section 320 Cr.P.C. However, such an exercise must take into account the nature and gravity of the crime and its social impact. Criminal proceedings related to offences involving mental depravity like Murder, Rape, Dacoity etc. or offences under specific laws like an act of corruption by the public servant under the Prevention of Corruption Act or offences committed by public servants while acting as public servants cannot be quashed on the basis of a compromise as these offences are not of private nature and have serious impact on the society. But offences arising from commercial, financial, mercantile, civil partnership or matrimonial offences related to dowry or

¹ 2010 (7) SCALE 711

² Law Commission of India 237th report Compounding of (IPC) Offences p.5

³ S. Joshi v. State of Haryana (2003) 4 SCC 675, Arvind Barsaul v. State of M.P. (2008) 5 SCC 794; Jitendra Raghuvanshi and others v. Babita Raghuvanshi and another (2013) 4 SCC 58

⁴ State of Karnataka v. L. Muniswamy (1977) 2 SCC 609; Nikhil Merchant Central Bureau of Investigation (2008) 9 SCC 677; Manoj Sharma v. State (2008) 16 SCC 1; Shiji @ Pappu v. Radhika 2011 (4) KLT 682 (SC); Jayraj Singh Digvijay Singh Rana v. State of Gujarat and another – 2012 (6) SCALE 525; Gian Singh v. State of Punjab 2012 AIR SCW 5333; Jagdish Chanana v. State of Haryana AIR 2008 SC 1968; Md. Abdul Sufan Laskar v. State of Assam (2008) 9 SCC 333

⁵ 2003(2) RCR (Criminal) 888

⁶ (2012) 10 SCC 303



family disputes are primarily of personal and private nature and therefore criminal proceedings involving these offences may be quashed by the High Court in the exercise of inherent powers.⁷

There can be no doubt that a case under Section 302 IPC or other serious offences like those under Section 395,307 or 304-B cannot be compounded and hence proceedings in those provisions cannot be quashed by the High Court in exercise of its power under Section 482 CrPC or in writ jurisdiction on the basis of compromise. However, in some other cases (like those akin to a civil nature), the proceedings can be quashed by the High Court if the parties have come to an amicable settlement even though the provisions are not compoundable. Where a line is to be drawn will have to be decided in some later decisions of this Court, preferably by a larger Bench (so as to make it more authoritative). Some guidelines will have to be evolved in this connection and the matter cannot be left at the sole unguided discretion of Judges, otherwise there may be conflicting decisions and judicial anarchy. A judicial discretion has to be exercised on some objective guiding principles and criteria, and not on the whims and fancies of individual Judges.⁸

State of Madhya Pradesh v. Laxmi Narayan⁹ the bench took up the case on a reference made to it in view of the apparent conflict between the two decisions of this court in the cases of **Narinder Singh v. State of Punjab**¹⁰ and **State of Rajasthan v. ShambhuKewat**¹¹.

State of Rajasthan v. ShambhuKewat¹² the court had observed that “in compounding the offences, the power of a criminal court is circumscribed by the provisions contained in Section 320 Cr. P. C. and the court is guided solely and squarely thereby, while, on the other hand, the formation of opinion by the High Court for quashing a criminal proceedings or criminal complainant under Section 482 Cr.P.C. is guided by the material on record as to whether ends of justice would justify such exercise of power, although ultimate consequence may be acquittal or dismissal of indictment.” However, in the **Narinder Singh v. State**, the court indicated that while exercising inherent powers under Section 482 CrPC, the court could also quash charges under offences that were non-compoundable in nature if there is a settlement between the parties.

Considering the law laid down in both the judgments, the Bench observed and help that both the judgments must be read harmoniously to mean that the High Court may allow the compounding of non-compoundable offences in cases where the offence is not of a serious nature and is predominantly of civil character.

The bench laid down the following guidelines:

1. The power conferred under Section 482 CrPC to quash the criminal proceedings for the non-compoundable offences under Section 320 CrPC 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. 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;
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 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.
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,

⁷Retrieved from https://www.google.com/url?Sa=t&source=web&rct=j&url=http://epgp.inflibnet.ac.in/epgpdata/uploads/epgp_content/law/05_criminal_justice_adminstration/23_inherent_jurisdiction_of_high_court/et/5683_et_23_et.pdf&ved=2ahUKEwj8lv69jb7uAhXixjgGHZCtDmwQFjAVegQIHhAB&usq=AOvVaw2KmyAxQ29cwa2Q2tC2yee

⁸Manoj Sharma v. State (2008) 16 SCC 1

⁹AIR 2019 SC 1296

¹⁰(2014) 6 SCC 466

¹¹(2014) 4 SCC 149

¹²Ibid



namely, whether the accused was absconding and why he was absconding, how he had managed with the complainant to enter into a compromise etc.¹³

Recommendation of Law Commission of India in 237th report as follows:

- 6.1 Broadly speaking, the offences which affect the security of the State or have a serious impact on the society at large ought not to be permitted to be compounded. So also, crimes of grave nature should not be the subject matter of compounding. The policy of law on compoundability of offences is complex and no straightjacket formula is available to reach the decision. A holistic and not an isolated approach is called for in identifying the compoundable and non-compoundable offences.
- 6.2 That the Courts are flooded with cases and, therefore, more and more offences should be identified for compoundability is only a secondary consideration.
- 6.3 In sub-section (3) of Section 320 CrPC after the bracketed words and before the words “or where the accused is liable”, the following words shall be added: “**or a criminal conspiracy to commit such offence**”.
- 6.4 Section 498A IPC should be made compoundable under Section 320(2) of CrPC so that it may be compounded with the permission of the Court. However, in order to ensure that the offer of composition is voluntary and free from pressures, it is proposed to introduce sub-section (2A) in Section 320 laying down the procedure for dealing with an application for compounding of an offence under Section 498A. The said sub-section (2A) is set out in paragraph 5.6 supra.
- 6.5 Section 324 IPC should be made compoundable subject to the permission of Court. Accordingly, it shall be brought within the ambit of Section 320(2) CrPC.
- 6.6 Section 326 IPC (causing grievous hurt by dangerous weapons) should not be made compoundable.
- 6.7 The offence of rioting under Section 147 IPC should be made compoundable by including the same in the Table appended to Section 320 (2) Cr PC subject to the addition of proviso: “provided that the accused is not charged with other offence which is not Compound.

The offence should remain non-bailable. However, the safeguard against arbitrary and unwarranted arrests lies in strictly observing the letter and spirit of the conditions laid down in Sections 41 and 41-A of Cr. PC relating to power of arrest and sensitizing the Police on the modalities to be observed in cases of this nature. The need for custodial interrogation should be carefully assessed. Over-reaction and inaction are equally wrong. Police should take necessary steps to ensure safety of the complainant and to prevent further acts of harassment.¹⁴

¹³Retrieved January 30, 2021 at 1:00 Pm from <https://lawstreet.co/judiciary/guidelines-by-sc-when-sec-482-crpc-be-invoked-to-compound-non-compoundable-offences/>

¹⁴Law Commission Report 243Rd Report on Section 498A IPC

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