



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (APL) NO. 1440 OF 2025

Aniket s/o Damodar Hatwar,
 Age 39 years, Occ: Service,
 R/o Siraspeth, Telipura, Plot No.
 365, Near Hanuman Temple, Nagpur. **APPLICANT**

Versus

1. State of Maharashtra,
 Through Police Station Imamwada,
 Nagpur.
2. Sanjubai w/o Jodhraj Bagriya,
 Age 39 years, Occ: Household,
 R/o Gram Dhakad, Khedi, Tahsil -
 Anta, Dharan, Kheri, Baran District
 Rajasthan – 325202. **NON-APPLICANTS**

 Mr. S.M. Mate, Advocate for the Applicant.
 Mr. A.M. Joshi, APP for the Non-applicant No. 1/State.
 Mr. A.G. Shitut, Advocate for the Non-applicant No.2.

CORAM : **URMILA JOSHI PHALKE, J.**

RESERVED ON : **04th FEBRUARY, 2026.**

PRONOUNCED ON : **06th FEBRUARY, 2026.**

ORAL JUDGMENT :-

1. Heard.

2. **ADMIT.** Heard finally by the consent of learned Counsel for the respective parties.

3. The present Application is preferred by the Applicant under Section 528 of the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023 for quashing the judgment of conviction of the Applicant and for acquitting him of the charges.

4. Heard Mr. Mate, learned Counsel for the Applicant, Mr. Joshi, learned APP for the Non-applicant No.1/State and Mr. Shitut, learned Counsel for the Non-applicant No.2.

5. Learned Counsel for the Applicant submitted that, the present Applicant was convicted in S.C.C. No.4888/2023 of the offence punishable under Section 304-A of the Indian Penal Code and sentenced to suffer rigorous imprisonment for six months and pay a fine of Rs.45,000/- and in default to suffer simple imprisonment for one month. He further convicted for the offence punishable under Sections 279 and 338 of the Indian Penal Code and sentenced to suffer rigorous

imprisonment for one month and pay a fine of Rs.1,000/- and in default to suffer simple imprisonment for fifteen days respectively. He was also convicted for the offence punishable under Section 184 of the Motor Vehicles Act and sentenced to pay a fine of Rs.3,000/- and in default to suffer simple imprisonment for ten days.

6. After conviction the Applicant preferred an Appeal. However, during the pendency of the Appeal, the parties arrived at a settlement and as per the settlement the Applicant has paid the compensation to the Non-applicant No.2. Now, the Non-applicant No.2 do not want to proceed with the further proceeding. She has also filed affidavit in reply, wherein she has accepted the settlement terms between them. As regards, the law regarding the settlement after conviction is concerned, he submitted that, now the issue is not remained as *res integra*, the High Court can quash such proceedings in exercise of its inherent powers under Section 482 of Code of Criminal Procedure (for short “CrPC”), even if the offences are non-compoundable. The High Court can evaluate the consequential effects of the offence and thereafter, adopt a

pragmatic approach. Thus, it is submitted that, in view of the catena of decisions of the Hon'ble Apex Court the power of the High Court under Section 482 of CrPC/528 of BNSS are not restricted one.

7. In support of his contention he placed reliance on *Maya Sanjay Khandare & Anr. Vs. State of Maharashtra, 2021(1) Mh.L.J. 613, Ramgopal & Anr. Vs. State of Madhya Pradesh, (2022) 14 SCC 531 and Criminal Application (APL) No. 308/2024 decided on 20.06.2024.*

8. *Per contra*, learned APP vehemently opposed the said Application and submitted that, if such compromises are allowed to be considered after the conviction, then it will give a wrong message to the society. He submits that, though this Court has power to consider the settlement post conviction, however the principles have been summarised by the Hon'ble Apex Court as to the quashment of the proceeding. The offence are not compoundable in view of Section 320 of CrPC. In view of that, the Application deserves to be rejected.

9. Learned Counsel for the Non-applicant No.2, supported the contention of the learned Counsel for the Applicant and submitted that in view of settlement, the Non-applicant No.2 has no objection to quash the FIR.

10. Before entering into the issue whether this is a fit case wherein the FIR can be quashed post conviction, it is necessary to refer the Full Bench decision of this Court in the case of *Maya Sanjay Khandare* (supra), wherein the following questions were framed, which are as under:

“(A) In a prosecution which has culminated in a conviction, whether the power under section 482, Criminal Procedure Code ought to be exercised for quashing the prosecution/conviction altogether, (instead of maintaining it and considering the issue of modification of the sentence) upon a settlement between the convict and the victim/complainant?

*(B) Whether the broader principles/parameters as set out in *Gian Singh vs. State of Punjab and another, 2013(1) Mh.L.J. (Cri.) (S.C.) 417 = (2012) 10 SCC 303, Narinder Singh vs. State of Punjab, 2014(4) Mh.L.J. (Cri.) (S.C.) 241 = (2014) 6 SCC 466 and Parbatbhai Aahir and others vs. State of Gujarat, 2018(2) Mh.L.J. (Cri.) (S.C.) 1 = (2017) 9 SCC 641* have been correctly applied in deciding *Udhav Kisanrao Ghodse, Ajmatkhan Rahematkhan and Shivaji Haribhau Jawanjal?*”*

11. While considering the questions framed and after taking into consideration the previous decisions of this Court as

well as the Hon'ble Apex Court, the Full Bench of this Court held in para 33, which reads as under:

“33. While answering Question (A) we may observe in the light of the settled legal position as under:

At the conclusion of the criminal trial the Court on finding the evidence on record led by the prosecution to be sufficient to prove the guilt of the accused would proceed to convict the accused. The remedy of challenging the order of conviction is available to the accused by way of an appeal. Any compromise entered into post-conviction for a non-compoundable offence cannot by itself result in acquittal of the accused. Similarly, the Court has no power to compound any offence that is non-compoundable and not permitted to be compounded under Section 320 of the Code. The compromise entered into therefore is just a mitigating factor that can be taken into account while hearing the appeal/revision challenging the conviction and which factor has to be taken into consideration while imposing appropriate punishment/sentence. It is not permissible to set aside the judgment of conviction at the appellate/revisional stage only on the ground that the parties have entered into a compromise. In a given case the appellate Court/revisional Court also has the option of not accepting the compromise. Thus if the judgment of conviction cannot be set aside in an appeal/revision only on the ground that the parties have entered into a compromise similar result cannot be obtained in a proceeding under Section 482 of the Code.

Hence, we hold that ordinarily the contention that the convict and the informant/complainant have entered into a compromise after the judgment of conviction can be raised only before the appellate/revisional Court in proceedings challenging such conviction. It would be a sound exercise of discretion under Section 482 of the Code and in accordance with the law of the land to refuse to quash criminal proceedings post-conviction for a non-compoundable offence only on the ground that the parties have entered into a compromise. Instead the Court can permit the convicted party to bring to the notice of the appellate/revisional Court the aspect of compromise. Having said so, it is only in rarest of rare cases that the Court may quash the criminal proceedings post-conviction

*for a non-compoundable offence on settlement between the convict and the informant/complainant. To illustrate, where a jurisdictional issue going to the root of the matter is raised for challenging the conviction or in matrimonial disputes where the parties have agreed to settle their differences, jurisdiction under Section 482 of the Code could be exercised. Such exercise of jurisdiction should be limited to the rarest of rare cases when found necessary to prevent the abuse of the process of the Court or to secure the ends of justice. Thus while holding that inherent power under Section 482 of the Code could be exercised for quashing criminal proceedings even at the appellate/revisional stage as held in *Kiran T. Ingale* (supra) such exercise of jurisdiction should be limited to the extent stated hereinabove. The ratio of the decision in *Kiran T. Ingale* (supra) has to be applied subject to aforesaid limitations. Further, the expression "criminal proceedings" would cover the entire journey of the proceedings commencing from its initiation till the proceedings culminate giving it seal of finality. Question (A) is answered accordingly."*

12. In the case of *Ramgopal & Anr.* (supra), wherein the Hon'ble Apex Court as to the legal position as to exercise of inherent powers by the High Court while quashing of criminal proceedings or the conviction for the non-compoundable offences, on the ground that there is a settlement/compromise between the victim and the offender, summarised as under:

(1) That 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) 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) While exercising the power under Section 482 CrPC 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.”

13. In para 19 of *Ramgopal & Anr.* (supra), wherein it is further held by the Hon’ble Apex Court, which reads as under:

“19. We thus sum up and hold that as opposed to Section 320 CrPC 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 CrPC or vested in this Court under Article 142 of the Constitution, can be invoked beyond the metes and bounds of Section 320 CrPC. Nonetheless, we reiterate that such powers of wide amplitude ought to be exercised carefully in the context of quashing criminal proceedings, bearing in mind:

19.1. Nature and effect of the offence on the conscience of the society;

19.2. Seriousness of the injury, if any;

19.3. Voluntary nature of compromise between the accused and the victim; and

19.4. Conduct of the accused persons, prior to and after the occurrence of the purported offence and/or other relevant considerations.”

14. In *Ramgopal & Anr.* (supra), the Hon’ble Apex Court was of the view that when the dispute is settled, then it should be seen by the Court that the complete justice is done in order to maintain peace and relation between the parties if they arrived at a compromise at the later point of time, within the parameters laid down, such powers under Section 482 of CrPC can be exercised. The Full Bench of this Court in *Maya Sanjay Khandare* (supra) was called upon to decide the issue regarding the scope of Section 482 of CrPC in setting aside the conviction due to compromise between the parties. Various decisions have been considered by this Court as well as the Hon’ble Apex Court, which include the decisions referred above and thereupon, the question ‘A’ has been answered. On repetition it can be said that, the Full Bench of this Court held that while exercising inherent powers under Section 482 of CrPC for quashing a criminal proceedings, the decision of this Court in *Kiran Tulshiram Vs. Anupama, reported in 2006(2) Mh.L.J. (Cri.) 402*, can be exercised in a limited way. The expression “Criminal Proceedings” would cover the entire journey of the

proceedings commencing from its initiation till the proceedings culminate giving it seal of finality. Thus, there is no hurdle in considering the settlements arrived at between the parties subject to the parameters laid down by the Hon'ble Apex Court in *Ramgopal & Anr.* (supra) and in *Maya Sanjay Khandare* (supra) by the Full Bench of this Court. It is with this view to see whether the parties in respective cases can be allowed to compound the offence or not.

15. The facts of the present case shows that on 18.12.2022 in the evening at about 06.00 to 07.00 hours the Complainant was selling caps and clothes of Santa Claus and Toys near Aasha Nursing Home at Apsara Square. At the relevant time, her two daughters were with her. Her one of the daughter aged about 7 years went at the shop near Amma Hospital to bring chocolate. There was one black dog standing near the said shop. The said dog came towards her, and therefore, deceased frightened and ran towards the road from the front side of the standing car. At that time, one red colour Car came from Aawari Square and was proceeding from Apsara Square to Ashok Chowk. The said Car was in speed. The said

Car dashed to her daughter Suman and she met with the said accident and sustained injuries. The number of the said Car was MH-12-EX-4130. Thereafter, Suman was taken in the Hospital and she was declared dead. Hence, the report was lodged. On the basis of said report Police have registered the crime and during investigation the Investigating Officer has prepared spot panchnama, recorded the relevant statements of witnesses and collected the PM. notes. After completion of the investigation, the Investigating Officer submitted the charge-sheet against the accused for the said offence. During trial the prosecution has adduced the evidence to prove the charge against the present Applicant. After appreciation of the evidence, the learned Trial Court held the present Applicant guilty under the provisions mentioned above.

16. Learned Counsel for the Applicant submitted that, even accepting the evidence of the prosecution as it is, the evidence of the Investigating Officer shows that she admitted during the cross examination that this could be a pure accident because the car driver who is coming from the back side unable to see the person who is proceeding front side of the said black

colour four wheeler vehicle which is standing in no-parking zone. The Investigating Officer further admitted all the incident of said footage that as it is seen that there is one girl and one black dog and one girl due to fear of the said dog is proceeding towards the road from the front side of black car standing in front of Hotel, at that time, it is seen that one red colour car is proceeding on the spot of incident which came from Apsara Square to Aawari Square. The Investigating Officer further admitted that, it is seen that one red colour four wheeler vehicle slowly taking turn and on the spot of incident, one black colour four wheeler vehicle was standing in no-parking zone. Thus, the evidence of the Investigating Officer shows that at the time of incident one black dog and one black colour four wheeler car were standing in front of Tanduri Chaska and at that time deceased scared of the dog and ran towards the road, at the relevant time the car came and there was a dash. Thus, it is a pure accident. The CCTV footage of the timing which was shown to the Investigating Officer and he has admitted the said fact.

17. He also invited my attention towards the evidence of the Complainant. During cross-examination the Complainant

has admitted that in front of the chocolate shop one car was standing there and near the said chocolate shop one black dog was also there and the said dog came towards her daughter, and therefore, her daughter ran towards the road. She also admitted that, one red colour car came from Aawari Square and turned on left side and also turned to Ashok Square.

18. Thus, he submitted that not only the Investigating Officer but the Complainant the mother of the deceased also admitted these facts. Therefore, the inference can be drawn that the accident took place as the deceased suddenly ran towards the road due to she scared from the dog, at that time the offending car came and dashed her. Thus, it is a pure accident.

19. He also invited my attention towards the observation of the Hon'ble Apex Court in the case of *Ramgopal & Anr.* (supra), wherein it is observed that 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 CrPC. Any such attempt by the court would amount to alteration, addition and modification of Section 320 CrPC, which is the exclusive domain of Legislature.

There is no patent or latent ambiguity in the language of Section 320 CrPC, 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 CrPC is not an embargo against invoking inherent powers by the High Court vested in it under Section 482 CrPC. The High Court, keeping in view the peculiar facts and circumstances of a case and for justifiable reasons can press Section 482 CrPC in aid to prevent abuse of the process of any Court and/or to secure the ends of justice.

20. It is further observed by the Hon'ble Apex Court in para 12, 13 & 14, which reads as under:

"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 CrPC, 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 paralyse 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 CrPC 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 CrPC 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 v. State of Punjab, (2014) 6 SCC 466 and State of M.P. v. Laxmi Narayan, (2019) 5 SCC 688.

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."

21. Admittedly, it is not necessary to go into much details as to whether the learned Trial Court was justified in convicting the Applicant and while awarding the punishment when he was invoking Sections 304 and 279 of IPC but taking

into consideration the facts of the case and the evidence as discussed above, it is certain that the accident occurred as the deceased scared of dog and she suddenly ran towards the road, at that time the vehicle approached to the road and driver of the vehicle could not see and the accident occurred. It is true that, the driver of the vehicle to take into consideration the road situation and has to take due care and caution while driving the vehicle which is in his possession.

22. However, considering the principles laid down by the Three Judge Bench of the Hon'ble Apex Court in the case of *Gian Singh Vs. State of Punjab & Anr, 2012(10) SCC 303*, wherein the Hon'ble Apex Court observed as under:

"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."

23. Having apprise the above parameters and the law laid down by the Hon'ble Apex Court the Application can be categorized as purely personal or having overtones of criminal

proceedings of private nature in the light of the observation made by the Hon'ble Apex Court in the case of *Ramgopal & Anr.* (supra). Especially in the observation of the Hon'ble Apex Court that the cause of administration of criminal justice system would remain uneffected on acceptance of the amicable settlement between the parties and/or resultant acquittal of the Appellants; more so looking at their present age.

24. Insofar as the present Application is concerned, the Applicant and the Complainant have jointly stated before this Court that they have settled their disputes. The reply filed by the Non-applicant No.2, wherein also she has stated that she has settled the dispute with the present Applicant. Admittedly, the factum of compromise and settlement between the parties have been raised for the first time before this Court. However, considering the nature of the offence and as rightly pointed out by the learned Counsel for the Applicant that despite the settlement, continuation of the criminal proceeding would tantamount to abuse of process of law.

25. In view of the above said observation and nature of the offence, the Application deserves to be allowed. Accordingly, I proceed to pass the following order.

O R D E R

- i. The Application is **allowed**.
- ii. The judgment of conviction passed in S.C.C. No.4888/2023 by the Judicial Magistrate First Class, Nagpur, is hereby quashed and set aside. Consequently, the Applicant is acquitted from the charges.

26. Pending application/s, if any, shall stand disposed of accordingly.

(URMILA JOSHI PHALKE, J.)

S.D.Bhimte