

## POWERS OF COURT UNDER SECTION 482, CODE OF CRIMINAL PROCEDURE, 1973 TO QUASH CRIMINAL PROCEEDINGS OF NON-COMPOUNDABLE OFFENCES

### INTRODUCTION

A reference was made to a three judge bench of the Supreme Court in the matter of ***The State of Madhya Pradesh v. Laxmi Narayan*** [Criminal Appeal No. 349 of 2019 with Criminal Appeal No. 350 of 2019] in view of the apparent conflict between the decisions of the apex court in *Narinder Singh v. State of Punjab*, (2014) 6 SCC 466 wherein the criminal proceedings in respect of non-compoundable offences were quashed and settlement was accepted and *State of Rajasthan v. Shambhu Kewat*, (2014) 4 SCC 149 wherein the criminal proceedings in respect of non-compoundable offences was not quashed and settlement was rejected.

By its judgment dated 5<sup>th</sup> March, 2019 in *State of M. P. v. Laxmi Narayan (supra)*, the three judge bench of the Apex Court has reinforced the principles in respect of exercise of powers by a court under Section 482, Code of Criminal Procedure ("CrPC") by stating that the power conferred under Section 482 to quash the criminal proceedings in relation to non-compoundable offences under Section 320, CrPC can be exercised in matters which have overwhelmingly and predominantly civil character, particularly those arising out of commercial transactions or matrimonial relationship or family disputes. Such a power should not be exercised in serious and heinous offences having a serious impact on the society.

### FACTS

On 3<sup>rd</sup> March, 2013 at around 9:30 p.m., the Complainant Charan Singh, an operator of LNT machine was extracting sand at one Indukhi

sandmine at which time some firing started and the Respondents - Accused alongwith two unknown persons came close to the Complainant and his machine. The Respondent No. 2 then fired on the Complainant whereafter all the Accused alongwith two unknown persons ran away. The bullet hit the Complainant and he fell from the machine. The Complainant was then admitted to the District Hospital. A First Information Report ("**FIR**") was lodged against the Respondents and two unknown persons at the Police Station, Raun, District Bhind (Madhya Pradesh) for offences punishable under Section 307 read with Section 34 of the Indian Penal Code ("**IPC**").

On 4<sup>th</sup> March, 2013, the doctor on duty in the District Hospital informed the police and on the basis of the statement of the Complainant, a *Dehati Nalishi* was registered under Section 307 read with Section 34, IPC.

The Accused filed Miscellaneous Criminal Case No. 8000 of 2013 under Section 482, CrPC before the High Court of Madhya Pradesh, (Gwalior Bench) for quashing of criminal proceedings against the Accused on the sole ground that a compromise had been arrived at between the Accused and the Complainant and that the disputes were settled amicably.

The High Court vide its impugned judgment and order dated 7<sup>th</sup> October 2013 ("**Impugned Judgment and Order**") quashed the criminal proceedings against the Accused in exercise of its powers under Section 482, CrPC whilst relying on the decision in *Shiji @ Pappu & Ors. v. Radhika & Anr.* (2011) 10 SCC 705.

Being aggrieved and dissatisfied by the Impugned Judgment and Order, the State of Madhya Pradesh preferred the Appeal before the Supreme Court.

## SUBMISSIONS

It was submitted by the Counsel appearing on behalf of the Appellant State that grave error was committed in quashing the FIR mechanically without considering the gravity and seriousness of the offences alleged against the Accused/ Respondents. It was further submitted that the fact that the alleged offences were against society at large and not restricted to personal disputes was ignored and that the decision in *Shiji @ Pappu (supra)* was misread by the High Court. In the present case, it was submitted that the investigation was in progress and even the statement of the witnesses was recorded and the medical evidence collected. Further, the Accused were hard core criminals and various criminal cases were registered against them. It was submitted that all the facts and circumstances, including the conduct of the Accused need to be considered before quashing a FIR in exercise of powers under Section 482, CrPC.

Nobody appeared on behalf of the Respondents.

## JUDGMENT

The Apex Court noted that the High Court in exercise of its powers under Section 482 of CrPC had quashed the FIR for the offences under Sections 307 and 34, IPC solely on the basis of a compromise between the Complainant and the Respondents. The Supreme Court observed that the High Court neither considered the fact that the alleged offences were non-compoundable nor considered the relevant facts and circumstances of the case. The court further observed that the High Court had mechanically quashed the FIR under Section 482, CrPC without

considering the seriousness of the offences and the social impact of the same.

While referring to the judgment in *Gian Singh v. State of Punjab (2012) 10 SCC 303*, the court noted the instances where criminal proceedings can be quashed in respect of non compoundable offences i.e. criminal cases having overwhelmingly and predominantly civil flavour, particularly the offences arising from commercial, financial, mercantile, civil, partnership or such like transactions or the offences of matrimony where the wrong is essentially private or personal in nature.

In *Narinder Singh v. State of Punjab (2014) 6 SCC 466* and later in *Parbatbai Aahir v. State of Gujarat (2017) 9 SCC 641*, the Supreme Court laid down the guiding principles for courts in exercising their powers under Section 482, CrPC. In *Narinder Singh v. State of Punjab (supra)* the Apex Court admitted that the offences under Section 307, IPC fall in the category of heinous and serious crimes and are generally treated as crimes against the society. The court had further observed that mention of Section 307 in the FIR or in the chargesheet should be corroborated with medical evidence or any other evidence which if proved in trial would lead to proving of charge. The court observed that the High Court should examine whether there is a strong possibility of conviction or not.

While taking note of the decisions under Section 482, CrPC and the guiding principles for quashing criminal proceedings in relation to non-compoundable offences, the Supreme Court observed that while exercising the power under Section 482, the court should consider the nature of offences whether the same are private in nature or have a serious impact on the society. Even if there is a settlement or compromise between the victim and

the offender, the High Court is required to consider the antecedents and the conduct of the accused.

In light of the facts of the matter and the judgments passed by the Apex Court, it was held that the High Court had misapplied the decision in *Shiji (supra)* to the present case and erred in quashing the FIR on the ground of settlement between parties without examining the facts and circumstances of the case, even when the investigation was in progress. Accordingly, the criminal appeal was allowed and the Impugned Judgment and Order was quashed.

### **CONCLUDING REMARKS**

The guiding principles in the court's exercise of powers under Section 482, CrPC have been reinforced by the Apex Court. The court has recognized that the power conferred under Section 482 is to be distinguished from the power to compound the offences under Section 320. Undoubtedly, the High Court has inherent power to quash the criminal proceedings; however, the said power is to be exercised sparingly and with caution.

---

*The content of this article is intended to provide a general guide to the subject matter and should not be construed as legal advice.*

