IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/CRIMINAL APPEAL NO. 563 of 2012
With
R/CRIMINAL APPEAL NO. 948 of 2012
With
R/CRIMINAL APPEAL NO. 949 of 2012

FOR APPROVAL AND SIGNATURE:

HONOURABLE MS. JUSTICE GITA GOPI

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Approved for Reporting	Yes	No
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DASHRATHSINH MANGUBHA RANA & ORS.
Versus
STATE OF GUJARAT

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Appearance:
MR PREMAL R JOSHI(1327) for the Appellant(s) No. 1,2,3
MR NILESH KOYANI for the original complainant
MS MONALI BHATT, APP for the Opponent(s)/Respondent(s) No. 1

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CORAM:**HONOURABLE MS. JUSTICE GITA GOPI**

Date : 16/06/2025

COMMON ORAL JUDGMENT

1. Challenge in these appeals is given to the judgment and order of conviction and sentence dated 3.4.2012 passed by the learned Special Judge (Atrocity) and Additional Sessions Judge, Surendranagar in Special Case no.14 of 2011 for the offence punishable under Sections 323, 504, 114 of the Indian Penal Code, 1860 (hereinafter referred to

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as “IPC”) as well as Section 3(1)(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities Act), 1989 (hereinafter referred to as “the Atrocities Act”), whereby the learned Judge has acquitted the appellants for the offence punishable under Sections 504 of the IPC and Section 3(1)(x) of the Atrocities Act. The learned Judge has convicted the appellants for the offence punishable under Sections 323 and 34 of the IPC to undergo simple imprisonment for a period of six months with fine of Rs.1,000/- each and in default of payment of fine, the appellants to further undergo simple imprisonment for a period of 15 days.

2. Learned advocate Mr. Premal Joshi has submitted that during the pendency of the proceedings, the parties have settled the disputes amicably outside the Court and that there remains no grievance between them.

3. Labhubhai Virabhai Sindhav – original complainant has filed an affidavit of settlement and has affirmed the contents of the affidavit and is identified by Mr. Nilesh Koyani, learned advocate for the original complainant. Learned advocate seeks permission to file Vakalatnama.

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Let Vakalatnama be accepted. Labhubhai Virabhai Sindhav–original complainant was instructed to appear through the Video Conferencing. He had chosen to remain personally present before this Court. The original complainant states that the issue was minor and has been settled with the intervention of the village people and community persons. He states that he does not want to proceed with the matter as he is desirous of peace and serenity in the village and want to cordially stay with all of them. He further stated that the accused have never disputed with him after this matter and held him with great respect in the village.

4. Ms. Monali Bhatt, learned APP, objecting to the settlement, has stated that the State has filed two appeals, one is for enhancement of sentence and another is against acquittal, while the accused had challenged the conviction under Sections 323 and 34 of the IPC. Learned APP has submitted that it is necessary to verify from the complainant whether any compensation has been received by him. The complainant has stated that he has received Rs.5,000/- from some Social Welfare Department.

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5. Considering the principle laid down by the Apex Court in the case of **Gian Singh v. State of Punjab and another** reported in **(2012) 10 SCC 303**, the present matter would fall under the criteria laid down therein. In paragraph-61 of the said judgment, it has been observed thus:-

> "61. The position that emerges from the above discussion can be summarised thus: 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 victims 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

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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."

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6. In the case of State of **Madhya Pradesh v. Laxmi Narayan and Others** reported in **(2019) 5 SCC 688**, the Apex Court had the occasion to consider the issue as to whether an FIR lodged for the offences punishable under sections 307 and 34 IPC could be quashed on the basis of the settlement between the parties. While considering the said issue, the Apex Court observed in para-13 thus:

> "13. Considering the law on the point and the other decisions of this Court on the point, referred to hereinabove, it is observed and held as under:
> (i) that the power conferred under Section 482 of the Code to quash the criminal proceedings for the noncompoundable 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;
>
> (ii) 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;
>
> (iii) similarly, 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;

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(iv) 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 society and not 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. However, the High Court would not rest its decision merely because there is a mention of Section 307 IPC in the FIR or the charge is framed under this provision. It would be open to the High Court to examine as to whether incorporation of Section 307 IPC is there for the sake of it or the prosecution has collected sufficient evidence, which if proved, would lead to framing the charge under Section 307 IPC. For this purpose, it would be open to the High Court to go by the nature of injury sustained, whether such injury is inflicted on the vital/delegate parts of the body, nature of weapons used etc. However, such an exercise by the High Court would be permissible only after the evidence is collected after investigation and the charge sheet is filed/charge is framed and/or during the trial. Such exercise is not permissible when the matter is still under investigation. Therefore, the ultimate conclusion in paragraphs 29.6 and 29.7 of the decision of this Court in the case of Narinder Singh (supra) should be read harmoniously and to be read as a whole and in the circumstances stated hereinabove;

(v) 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 impart 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

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> 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."

7. In the case of **Prathvi Raj Chauhan v. Union of India and Others** reported in **(2020) 4 SCC 727**, the Hon'ble Supreme Court (Per: Hon'ble Justice S. Ravindra Bhatt) referred to the judgment rendered in the case of **Raghunathrao Ganpatrao vs. Union of India**, reported in **1993 (1) SCR 480**, wherein it has been held as under:-

> "In our considered opinion this argument is misconceived and has no relevance to the facts of the present case. One of the objectives of the Preamble of our Constitution is 'fraternity assuring the dignity of the individual and the unity and integrity of the nation.' It will be relevant to cite the explanation given by Dr. Ambedkar for the word 'fraternity' explaining that 'fraternity means a sense of common brotherhood of all Indians.' In a country like ours with so many disruptive forces of regionalism, communalism and linguism, it is necessary to emphasis and re-emphasis that the unity and integrity of India can be preserved only by a spirit of brotherhood. India has one common citizenship and every citizen should feel that he is Indian first irrespective of other basis. In this view, any measure at bringing about equality should be welcome."

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8. In a similar way, the Hon'ble Supreme Court in the case of **Nandini Sundar Vs. State of Chhatisgarh**, reported in **(2011) 7 SCC 457**, held that:-

> "The Constitution itself, in no uncertain terms, demands that the State shall strive, incessantly and consistently, to promote fraternity amongst all citizens such that dignity of every citizen is protected, nourished and promoted."

9. In the case of **Prathvi Raj Chauhan** (supra), while dealing with the constitutional validity of Section 18A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, it was held as under:-

> "12. The Court can, in exceptional cases, exercise power under Section 482 Cr.P.C. for quashing the cases to prevent misuse of provisions on settled parameter, as already observed while deciding the review petitions. The legal position is clear and no argument to the contrary has been raised."

10. Special Case no.14 of 2011 was filed before the Special Court under the provisions of the Atrocities Act and IPC. The accused were convicted under Section 323 read with Section 34 of the IPC, as referred to hereinabove, while the

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learned Trial Court did not find any offence under Section 504 of the IPC and Section 3(1)(x) of the Atrocities Act and therefore, acquitted the accused under the said sections. The conviction is under Section 323 of the IPC. The complainant proposes to compound the same. Thus, in accordance with law since Section 323 of the Cr.P.C. is compoundable, without any permission of the Court as noted under Table 1 of Section 320 of the Cr.P.C. and when the complainant who is desirous of compounding the offence and when the affidavit filed by him has been found to be voluntarily placed on record, considering the provisions of Section 320 of the Cr.P.C., the matter stands compounded.

11. In view of the discussions made hereinabove and in view of the settlement arrived at between the parties, there exists no scope for any further proceeding in the matters. The continuance of proceedings would lead to wastage of precious judicial time as the complainant has compounded the offence.

12. Accordingly, Criminal Appeal no.948 of 2012 and Criminal Appeal no.949 of 2012 are dismissed. Criminal Appeal

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no.563 of 2012 filed by the original accused is allowed by quashing and setting aside the judgment and order of conviction and sentence dated 3.4.2012 passed by the learned Special Judge (Atrocity) and Additional Sessions Judge, Surendranagar in Special Case no.14 of 2011. All the accused shall stand acquitted.

(GITA GOPI,J)

Maulik

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