

IN THE HIGH COURT OF JHARKHAND AT RANCHI

Cr.M.P. No. 1323 of 2019

Md. Shamshad Ali ... Petitioner  
Vs.  
The State of Jharkhand and another .... Opposite Parties

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CORAM: HON'BLE MR. JUSTICE RONGON MUKHOPADHYAY  
HON'BLE MR. JUSTICE AMBUJ NATH

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For the Petitioner : Mr. Indrajit Sinha, Advocate  
Mr. Akhouri Awinash Kumar, Advocate  
For the State : Mr. Rajneesh Vardhan, A.P.P.  
For the O.P. No. 2 : Mr. Suresh Kumar, Advocate

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Order No. 16

Dated 18<sup>th</sup> August, 2025

Heard the learned counsel for the respective sides.

This application has been placed before us in view of the order dated 05.06.2020 which reads as under:-

*"Criminal proceeding is sought to be quashed solely on the basis of a compromise. This criminal proceeding arises out of an FIR registered under Section 354 A IPC & Sections 8 & 10 of the POCSO Act.*

*Question which fall for consideration is:-*

*1) Whether a case which is registered under POCSO or under any others Special Act, wherein there is no provision for compounding, can be quashed by invoking extraordinary jurisdiction of the court under articles 226/227 of the Constitution or under Section 482 of the Cr.P.C on the ground that the parties have entered into a compromise.*

*2) Whether at any stage, starting from the stage of taking cognizance till pronouncement of judgment, any such compromise petition can be looked or entertained by any court and can have any bearing on any intermediate, interlocutory or supplemental proceeding (like bail, framing of charge etc) of the said case.*

*These issues are of utmost importance which if answered in either way will have a long lasting effect on criminal justice delivery system. Thus, this court feels that these issues should be placed before a Division Bench of this court.*

*Let this matter, thus be placed before the Hon'ble Chief Justice for assignment.*

*In the meantime, interim relief granted to the petitioner shall continue."*

Submission has been advanced by Mr. Indrajit Sinha, learned counsel for the petitioner that the issue in question has already been decided by the Hon'ble Supreme Court in the case of Ramji Lal Barirwa and another v. State of Rajasthan and others reported in (2025) 5 SCC 117. The relevant reads as follows:-

"35. The learned amicus curiae submitted that a scanning of the decision of this Court in Gian Singh's case (supra) itself would reveal the legal position in regard to the said question. The learned amicus curiae drew our attention to paragraphs 48, 57, 58 and 61 of the said decision. Paragraph 57 and the relevant portions of paragraphs 48, 58 and 61 read thus:

*"48.....While parting with this part, it appears necessary to add that the settlement or compromise must satisfy the conscience of the court. The settlement must be just and fair besides being free from the undue pressure, the court must examine the cases of weaker and vulnerable victims with necessary caution....."*

*57. Quashing of offence or criminal proceedings on the ground of settlement between an offender and victim is not the same thing as compounding of offence. They are different and not interchangeable. Strictly speaking, the power of compounding of offences given to a court under Section 320 is materially different from the quashing of criminal proceedings by the High Court in exercise of its inherent jurisdiction. In compounding of offences, power of a criminal court is circumscribed by the provisions contained in Section 320 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 offence or criminal proceeding or criminal complaint is guided by the material on record as to whether the ends of justice would justify such exercise of power although the ultimate consequence may be acquittal or dismissal of indictment.*

*58. Where the High Court quashes a criminal proceeding having regard to the fact that the dispute between the offender and the victim has been settled although the offences are not*

compoundable, it does so as in its opinion, continuation of criminal proceedings will be an exercise in futility and justice in the case demands that the dispute between the parties is put to an end and peace is restored; securing the ends of justice being the ultimate guiding factor. No doubt, crimes are acts which have harmful effect on the public and consist in wrongdoing that seriously endangers and threatens the well-being of the society and it is not safe to leave the crime-doer only because he and the victim have settled the dispute amicably or that the victim has been paid compensation, yet certain crimes have been made compoundable in law, with or without the permission of the court. In respect of serious offences like murder, rape, dacoity, etc., or other offences of mental depravity under IPC or offences of moral turpitude under special statutes, like the Prevention of Corruption Act or the offences committed by public servants while working in that capacity, the settlement between the offender and the victim can have no legal sanction at all. However, certain offences which overwhelmingly and predominantly bear civil flavour having arisen out of civil, mercantile, commercial, financial, partnership or such like transactions or the offences arising out of matrimony, particularly relating to dowry, etc. or the family dispute, where the wrong is basically to the victim and the offender and the victim have settled all disputes between them amicably, irrespective of the fact that such offences have not been made compoundable, the High Court may within the framework of its inherent power, quash the criminal proceeding or criminal complaint or FIR if it is satisfied that on the face of such settlement, there is hardly any likelihood of the offender being convicted and by not quashing the criminal proceedings, justice shall be casualty and ends of justice shall be defeated. The above list is illustrative and not exhaustive. **Each case will depend on its own facts and no hard-and-fast category can be prescribed.**

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 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.” (emphasis supplied)*

44. In view of the very object and purpose of enacting the POCSO Act, we find no reason to disagree with the conclusions in paragraph 12 extracted above in the given case. It is more so, when the extracted portion from the complaint that was annexed to the FIR and extracted hereinbefore would reveal that the accused was making pressure on him not to lodge any report. Despite giving such statement in the

complaint, within a couple of weeks, the accused managed to compromise the case with the 4th respondent and his wife.

45. In the decision relied on by the High Court to quash the proceedings viz., Gian Singh's case (supra) and the decision in Laxmi Narayan's case (supra) in unambiguous terms this Court held that the power

under Section 482, Cr. P.C. could not be used to quash proceedings based on compromise if it is in respect of heinous offence which are not private in nature and have a serious impact on the society. When an incident of the aforesaid nature and gravity allegedly occurred in a higher secondary school, that too from a teacher, it cannot be simply described as an offence which is purely private in nature and have no serious impact on the society."

The above therefore answers the questions formulated by the learned Single Judge and accordingly the matter is referred back to the learned Single Judge.

(RONGON MUKHOPADHYAY,J.)

(AMBUJ NATH, J.)

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