REPORTABLE

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.8546 OF 2014
(Arising out of S.L.P.(C) No.20066 of 2008)

GOLD QUEST INTERNATIONAL
PRIVATE LIMITED ……. APPELLANT

VERSUS

THE STATE OF TAMIL
NADU & ORS. … .. RESPONDENTS

J U D G M E N T

PRAFULLA C.PANT,J.

1. Leave granted.

2. The question before us in this appeal is whether the Division Bench of High Court has erred in law in setting aside the order of learned Single

Judge quashing the First Information Report (for short, 'FIR') on the basis of the compromise and settlement between the complainant and the appellant.

3. Brief facts of the case are that the appellant is an International Numismatic Company which has operations in over sixty countries. It is pleaded that it conducts its business with necessary licence. The multi level marketing through direct selling of products is being adopted by the Company in the interest of the consumers by eliminating the middleman and rewarding the consumer by reducing the prices. The appellant-company has over sixteen thousand members/ consumers in and around the city of Chennai alone. A complaint was made in the year 2003 by Respondent No.7 against the appellant-company alleging non-compliance of issuance of numismatic gold coin on receipt of Rs.16,800/- from wife of Respondent No.7 as per the promise made by the appellant-company. Some other customers also had complaints on the basis of which Respondent No.4 registered a case under Section 420 of the Indian Penal Code read with Sections 4, 5 & 6 of the Prize Chits and Money Circulation (Banning) Act, 1978. The appellant-company filed a writ petition being W.P.No.26784 of 2003 before the High Court of Judicature at Madras praying therein that the FIR registered against it be quashed. Since all the

claimants including the complainant settled the dispute with the appellant-company and entered into an agreement, learned Single Judge of the High Court by its order dated 19th April, 2005 quashed the FIR, and disposed of the aforesaid writ petition. However, the State-respondents challenged the said order dated 19th April, 2005 passed by the learned Single Judge whereby the FIR No.307 of 2003 was quashed, before the Division Bench of the High Court. The Division Bench allowed the writ appeal being W.A.No.1178 of 2005 filed by the State-respondents and directed Respondent No.4 to investigate the crime. Hence, this appeal.

4. We have heard learned counsel for the parties, and perused the papers on record.

5. The main ground on which the Division Bench appears to have interfered with the order of the learned Single Judge is that out of 172 claimants, there was no compromise from two persons. However, there was sufficient evidence on record to suggest that the whereabouts of those two persons were not known, nor have they ever challenged the order of learned Single Judge. The Division Bench while accepting the arguments of the State-Respondents have relied on a decision of this Court in **Union of India** vs. **Bhajan Lal** **(AIR 1992 SC 604 : 1992 Supp. (1) SCC 335)**. The said judgment appears to have been discussed by this

Court in **B. S. Joshi & Ors**. vs. **State of Haryana & Anr. (2003) 4 SCC 675**. Relevant paragraphs of **B. S. Joshi's case (supra**) are reproduced below:

> " 2. The question that falls for determination in the instant case is about the ambit of the inherent powers of the High Courts under Section 482 of the Code of Criminal Procedure (the Code) read with Articles 226 and 227 of the Constitution of India to quash criminal proceedings. The scope and ambit of power under Section 482 has been examined by this Court in a catena of earlier decisions but in the present case that is required to be considered in relation to matrimonial disputes. The matrimonial disputes of the kind in the present case have been on considerable increase in recent times resulting in filing of complaints by the wife under Sections 498-A and 406 IPC not only against the husband but his other family members also. When such matters are resolved either by the wife agreeing to rejoin the matrimonial home or mutual separation of husband and wife and also mutual settlement of other pending disputes as a result whereof both sides approach the High Court and jointly pray for quashing of the criminal proceedings or the first information report or complaint filed by the wife under Sections 498-A and 406 IPC, can the prayer be declined on the ground that since the offences are non-compoundable under Section 320 of the Code, therefore, it is not permissible for the court to quash the criminal proceedings or FIR or complaint.
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> 4. The High Court has, by the impugned judgment, dismissed the petition filed by the appellants seeking

quashing of the FIR for in view of the High Court the offences under Sections 498-A and 406 IPC are non-compoundable and the inherent powers under Section 482 of the Code cannot be invoked to bypass the mandatory provision of Section 320 of the Code. For its view, the High Court has referred to and relied upon the decisions of this Court in State of Haryana v. Bhajan Lal [1992 suppl.(1) SCC 335], Madhu Limaye v. State of Maharashtra [(1977) 4 SCC 551] and Surendra Nath Mohanty v. State of Orissa [(1999) 5 SCC 238].

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14. There is no doubt that the object of introducing Chapter XX-A containing Section 498-A in the Indian Penal Code was to prevent torture to a woman by her husband or by relatives of her husband. Section 498-A was added with a view to punishing a husband and his relatives who harass or torture the wife to coerce her or her relatives to satisfy unlawful demands of dowry. The hypertechnical view would be counterproductive and would act against interests of women and against the object for which this provision was added. There is every likelihood that non-exercise of inherent power to quash the proceedings to meet the ends of justice would prevent women from settling earlier. That is not the object of Chapter XX-A of the Indian Penal Code.

15. In view of the above discussion, we hold that the High Court in exercise of its inherent powers can quash criminal proceedings or FIR or complaint and Section 320 of the Code does not limit or affect the powers under Section 482 of the Code."

6. Subsequent to the case of **B.S. Joshi (supra**) in **Nikhil Merchant** vs**. Central Bureau of Investigation & Anr**. **(2008) 9 SCC 677**, this Court

has made the following observations in paragraphs 30 and 31 which are quoted below:

> "**30**. In the instant case, the disputes between the Company and the Bank have been set at rest on the basis of the compromise arrived at by them whereunder the dues of the Bank have been cleared and the Bank does not appear to have any further claim against the Company. What, however, remains is the fact that certain documents were alleged to have been created by the appellant herein in order to avail of credit facilities beyond the limit to which the Company was entitled. The dispute involved herein has overtones of a civil dispute with certain criminal facets. The question which is required to be answered in this case is whether the power which independently lies with this Court to quash the criminal proceedings pursuant to the compromise arrived at, should at all be exercised?
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> **31.** On an overall view of the facts as indicated hereinabove and keeping in mind the decision of this Court in B.S. Joshi *case* [(2003) 4 SCC 675], and the compromise arrived at between the Company and the Bank as also Clause 11 of the consent terms filed in the suit filed by the Bank, we are satisfied that this is a fit case where technicality should not be allowed to stand in the way in the quashing of the criminal proceedings, since, in our view, the continuance of the same after the compromise arrived at between the parties would be a futile exercise."

7. In **Gian Singh** vs. **State of Punjab & Anr**. **(2012) 10 SCC 303,** judgments in **B.S. Joshi (supra)** and **Nikhil Merchant (supra)** were considered by a three-Judge Bench of this Court and it has found that the view taken in aforesaid two cases by this Court is correct. Relevant

paragraphs of the judgment in **Gian Singh (supra**) read as follows:

> " 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.
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> 59. B.S. Joshi [(2003) 4 SCC 675], Nikhil Merchant [(2008) 9 SCC 677], Manoj Sharma [(2008) 16 SCC 1 and Shiji [(2011) 10 SCC 705] do illustrate the principle that the High Court may quash criminal proceedings or FIR or complaint in exercise of its inherent power under Section 482 of the Code and Section 320 does not limit or affect the powers of the High Court under Section 482. Can it be said that by quashing criminal proceedings in B.S. Joshi, Nikhil Merchant, Manoj Sharma and Shiji this Court has compounded the non-compoundable offences indirectly ? We do not think so. There does exist the distinction between compounding of an offence under Section 320 and quashing of a criminal case by the High Court in exercise of inherent power under Section 482. The two powers are distinct and different although the ultimate consequence may be the same viz.

acquittal of the accused or dismissal of indictment.

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61. The position that emerges from the above discussion can be summarized 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 proceedings."

8. In view of the principle laid down by this Court in the aforesaid cases, we are of the view in the disputes which are substantially matrimonial in nature, or the civil property disputes with criminal facets, if the parties have entered into settlement, and it has become clear that there are no chances of conviction, there is no illegality in quashing the proceedings under Section 482 Cr.P.C. read with Article 226 of the Constitution. However, the same would not apply where the nature of offence is very serious like rape, murder, robbery, dacoity, cases under Prevention of Corruption Act, cases under Narcotic Drugs and Psychotropic Substances Act and other similar kind of offences in which

punishment of life imprisonment or death can be awarded. After considering the facts and circumstances of the present case, we are of the view that learned Single Judge did not commit any error of law in quashing the FIR after not only the complainant and the appellant settled their money dispute but also the other alleged sufferers entered into an agreement with the appellant, and as such, they too settled their claims.

9. For the reasons as discussed above, we are of the opinion that the impugned order dated 7th March, 2008 passed by the Division Bench of the High Court in W.A.No.1178 of 2005 is liable to be set aside. Accordingly, the appeal is allowed, and the order dated 19th April, 2005 passed by the learned Single Judge in W.P. No. 26874 of 2003 stands restored. No order as to costs.

……..J.
(SUDHANSU JYOTI MUKHOPADHAYA)

……J
(PRAFULLA C. PANT)

NEW DELHI,
SEPTEMBER 8, 2014.