

IN THE HIGH COURT OF MANIPUR
AT IMPHAL

(1)Cril.Petn. No. 45 of 2019

1. Shri Jeetmal Jain @ Jeetmal Manot, aged about 55 years, S/o (L) Bhavarlal Jain, resident of Thangal Bazar P.O. Imphal, P.S. City Police, District - Imphal West, Manipur-795001.
2. Shri Jai Singh Jain, aged about 30 years, S/o Shri Jitmal Jain, resident of Thangal Bazar, P.O. Imphal, P.S. City Police, District-Imphal West, Manipur-795001.

..... *Petitioner/s*

- *Versus* -

1. The Commissioner/Secretary (Home), Department of Home, Govt. of Manipur, Old Secretariat Building, Babupara, P.O. & P.S. Imphal, Imphal West District, Manipur-795001.
2. Sub-Divisional Police Officer, Imphal, Babupara, Imphal West District, Manipur-795001.
3. The Officer-in-Charge of City Police Station at M.G. Avenue, Imphal West District, Manipur-795001.
4. Mr. Manoj Kumar Jain, aged about 53 years, S/o (L) Sobhog Chand Jain of Thangal Bazar Assembly Road, P.O. Imphal, P.S. City Police Station, Imphal West District, Manipur-795001.

.....*Respondent/s*

With

MC(Cril.Petn.) No. 34 of 2022

[Ref: Cril.Petn. No. 45 of 2019]

1. Shri Jeetmal Jain @ Jeetmal Manot, aged about 55 years, S/o (L) Bhavarlal Jain, resident of Thangal Bazar P.O. Imphal, P.S. City Police, District - Imphal West, Manipur-795001.
2. Shri Jai Singh Jain, aged about 30 years, S/o Shri Jitmal Jain, resident of Thangal Bazar, P.O. Imphal, P.S. City Police, District-Imphal West, Manipur-795001.

..... *Applicant/s*

- *Versus* -

1. The State of Manipur represented by
Commissioner/Secretary (Home), Department of Home,
Govt. of Manipur, Old Secretariat Building, Babupara, P.O. &
P.S. Imphal, Imphal West District, Manipur-795001.
2. Sub-Divisional Police Officer, Imphal, Babupara, Imphal West
District, Manipur-795001.
3. The Officer-in-Charge of City Police Station at M.G. Avenue,
Imphal West District, Manipur-795001.
4. Mr. Manoj Kumar Jain, aged about 53 years, S/o (L) Sobhog
Chand Jain of Thangal Bazar Assembly Road, P.O. Imphal, P.S.
City Police Station, Imphal West District, Manipur-795001.

.....Respondent/s

&

(2) Cril.Petn. No. 39 of 2019

Mahendra Kumar Jain aged about 60 years S/o (Late)
Chandanmal Jain of Thangal Bazar, P.O. Imphal, P.S.
City Police, District: Imphal West, Manipur-795001.

.....Petitioner

-VS-

1. The State of Manipur represented by the
Commissioner/Secretary (Home) to the Government of
Manipur at the Secretariat Complex, Babupara, Imphal
West District, Manipur-795001.
2. Sub-Divisional Police Officer – Imphal, Babupara, Imphal
West District, Manipur-795001.
3. The Officer-in-Charge of the City Police Station at M.G.
Avenue, Imphal West District, Manipur-795001.
4. Mr. Manoj Kumar Jain, aged about 53 years S/o (L)
Sobhag Chand Jain of Thangal Bazar Assembly Road,
P.O. Imphal, P.S. City Police Station, Imphal West
District, Manipur-795001.

.....Respondent

B E F O R E
HON'BLE MR. JUSTICE A. GUNESHWAR SHARMA

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|----------------------------|----|--|
| For the Petitioners | :: | Mr. Anjan Prasad Sahu, Adv. in Crl.Petn. No. 45 of 2019 and Mr. Leo Rommel, Adv. in Crl.Petn. No. 39 of 2019. |
| For the Respondents | :: | Mr. H. Samarjit, PP for the State and Mr. T. Rajendra, Sr. Adv. Assisted by Mr. Bikash Sharma for the private respondent. |
| Date of Hearing | :: | 13.02.2023, 27.03.2023, 28.03.2023, 30.03.2023 and 03.04.2023. |
| Date of Judgment and Order | :: | 30.06.2023 |

JUDGMENT AND ORDER (CAV)

[1] These 2 (two) petitions being Crl.Petn. No. 45 of 2019 and Crl.Petn. No. 39 of 2019 have been filed by the petitioners/accused for quashing and setting aside the FIR No. 55(7) 2019 City Police Station U/s 506/120-B IPC, 20/18 UA(P) Act & 66-F(2) IT Act, 2000. The petitioners in both petitions are accused in the said FIR lodged by one Mr. Manoj Kumar Jain (respondent No. 4). Since these two petitions are arising out of the same FIR, they are heard together. For clarity, the petitioners in both cases will be referred to as accused No. 1, 2 & 3 in this order. Mr. Mahendra Kumar Jain (petitioner in Crl. Petn. No. 39 of 2019) is accused No. 1, Mr. Jeetmal Jain @ Jeetmal Manot (petitioner No.1 in Crl. Petn. No. 45 of 2019) is accused No. 2, Mr. Jai Singh Jain (petitioner No.2 in Crl. Petn. No. 45 of 2019) is accused No. 3 and accused No. 4 is unknown member of Maoist Communist Party. Respondent No.4 in both cases is the complainant in the FIR. The petitioners in Crl. Petn. No. 45 of 2019 have also filed an application being MC(Crl.Petn.) No. 34 of 2022 for correction of inadvertent typographical error in the cause title with regard to

Respondent No. 1 with a prayer to add “State of Manipur represented by” as the first line. It may be noted that this application has been filed after objection by the Respondent No.4 in his counter affidavit to the effect that the petition is not maintainable as the State of Manipur has not been impleaded as a party respondent. Vide order dated 11.09.2019 in Cril. Petn. No. 39 of 2019 and order dated 16.10.2019 in Cril. Petn. No. 45 of 2019, this Court admitted the petitions for quashing the FIR and granted interim stay of the FIR. The interim orders have been extended from time to time.

[2] The brief facts of the present case in a nutshell is that one Mr. Manoj Kumar Jain lodged a complaint dated 21.07.2019 to the Officer-in-Charge, City Police Station against the accused persons, namely Mr. Mahendra Kumar Jain (petitioner in Cril.Petn. No. 39 of 2019) and Mr. Jeetmal Jain @ Jeetmal Manot and Mr. Jai Singh Jain (petitioners in Cril.Petn. No. 45 of 2019) as the complainant was receiving threatening messages from the unlawful organisation Maoist Communist Party in connection with land dispute between the complainant and the accused party. Accordingly, FIR being FIR No. 55(7) 2019 City Police Station U/s 506/120-B IPC, 20/18 UA(P) Act & 66-F(2) IT Act, 2000 was registered against these accused persons.

[3] The complaint dated 21.07.2019 reads as under

“To,

*The Officer-in-Charge,
City Police Station,
Imphal West, Manipur.*

Subject: Report regarding threatening to life.

Respected Sir,

I am writing to express my worry that I have been receiving threatening messages on 12.07.2019, 13.07.2019 and 17.07.2019 while I was at my residence from phone number +19-8257-860691 which happens to be a banned

unlawful organization Maoist Communist Party on my mobile phone No. +91-94026-94026.

It has early come to my knowledge that the people behind this Act are Mr. Mahendra Kumar Jain, Mr. Jitmal Jain and Mr. Jai Singh of Thangal Bazar, Imphal. They have been threatening me and my family since a long time in concern with a land dispute for which Civil Court are pending in the Honorable Civil Judge, Senior Division and High Court of Manipur. They have hired this banned unlawful organization Maoist Communist Party of Manipur and the conspiring with the members of the said Outlawed Orgn. They threatened me and my family through above mentioned mobile phone and the messaged are attached herewith.

It is obligatory to mention here in that I and my family have no enmity with any concern persons except the Civil cases registered.

I would humbly like to request you to book the culprit into severe punishment as soon as responsible.

Thanking you.

Dated:-21.07.2019

Yours faithfully,

*Mr. Manoj Kumar Jain (53),
S/o (L) Sobhag Chand Jain of
Thangal Bazar Assembly Road."*

[4] Mr. Mahendra Kumar Jain is accused No. 1, Mr. Jeetmal Jain @ Jeetmal Manot is accused No. 2, Mr. Jai Singh Jain is accused No. 3 and accused No. 4 is unknown member of Maoist Communist Party. Vide notice dated 16.08.2019, SDPO-Imphal (Sub-Divisional Police Officer-Imphal, Imphal West District, Manipur) informed the 3 (three) accused persons to appear before him on 17.08.2019 in connection with the said FIR. Subsequently, these petitioners were filed before this Court for quashing of the FIR.

[5] Brief fact of the case as per accused No. 1 Mr. Mahendra Kumar Jain is that he is the owner in possession of a piece of land under patta No. 298,356(old) corresponding to new patta no. 745 covered by C.S. Dag No. XVI/560, measuring an area of 0.0310 hectare situated at the

revenue village no. 87(A) Khwai Bazaar, Imphal West Tahasil. In that plot of land one-storied pucca structure on the western frontal portion and three-storied building on the eastern portion are also standing and four shops are also laying. It is also stated that wives of the respondent No. 4/complainant and his two brothers namely Smt. Jogita Jain, Smt. Puja Jain and Smt. Pallavi Jain are claiming to be recorded pattadars of the above plot having purchase the same from accused No. 1 for consideration of Rs. 45,00,000/- by executing a registered sale deed dated 15.01.2016. According to accused No. 1, he borrowed a sum of Rs. 45,00,000/- from these three ladies by mortgaging his plot in the month of January, 2016. Accused No. 2 and 3 are tenants of accused No. 1 in one of the shops in the plot. The accused Nos. 2 & 3 lodged a complaint against the two brothers of the respondent No. 4/complainant, as they locked the shops. It is also stated that several civil and criminal cases are pending between the accused persons and complainant herein before this Court and Courts below, such as: **(i)** CRP(Art. 227) No. 17 of 2018 (Mahendra Kumar Jain vs. Yogita Jain & 5 Ors.), **(ii)** CRP (Art. 227) No. 7 of 2018 (Ref: O.S. No. 16 of 2017 (Shailesh Jain vs. Mahendra Kumar Jain & 3 Ors.)), **(iii)** WP(C) No. 451 of 2017 (Mahendra Kumar Jain vs. State of Manipur (revenue) & 5 Ors.), **(iv)** Cril Revision No. 8 of 2017 (Mahendra Kumar Jain vs. State of Manipur & 3 Ors.), **(v)** MFA No. 1 of 2017 [Ref: Judl. Misc. Case No. 288 of 2017 & O.S. No. 47 of 2017 (Yogita Jain vs. Mahendra Kumar Jain)] **(vi)** Cril. Petn. No. 20 of 2017 (M.R. Roller Floor Mill vs. State of Manipur (Home) & 7 Ors.) **(vii)** Writ Appeal No. 30 of 2017 [Ref: WP(C) No. 578 of 2018 (Mahendra Kumar Jain vs. State of Manipur (Home) & 8 Ors.)] **(viii)** O.S. No. 16 of 2017 (CJJD, IW-I; Shailesh Jain vs. Mahendra Kumar Jain & Ors.) **(ix)** 13 O.S. No. 47 of 2017 (CJSD, IW Mahendra Kumar Jain vs. Yogita Jain & Ors.) **(x)** Complaint Case No. 20 of 2017 (Manish vs. Mahendra Kumar Jain) **(xi)** Complaint Case No. 158 of 2018 (Jeetmal Jain vs. Mukesh Kumar Jain) **(xii)** Cril(C) No. 194 of 2018 (Mahendra Kumar Jain vs. Majojkumar Jain & 2 ors.) & **(xiii)** Cril (P) Case No. 12 of 2019 before the CJM, Imphal West. It is stated that the present complaint has

been lodged by the respondent No. 4/complainant against the accused persons to harass the accused No. 1 in the pending civil and criminal cases and the FIR is liable to be quashed in the interest of justice.

[6] Accused No. 1/ Mr. Mahendra Kumar Jain filed a Cril. Petn. being Cril.Petn. No. 39 of 2019 under Section 482 of Cr.P.C. for quashing the FIR and the relevant grounds are reproduced below:

“(ix) In fact, the petitioner is nowhere involve in any such kind of act as alleged by the respondent No. 4. Mr. Manoj Kumar Jain lodged the report on the heat of the moment without any truth contained in the report and also the petitioner has been harassed, prejudiced and adversely affecting with the pending FIR. The incident was arose from out of momentary lapse of judgment of several civil and criminal case which are still pending before the High Court of Manipur and its Sub-Ordinate Court.

5. *That, the ‘Report’ lodged by the respondent No. 4 which led to the registering of the impugned FIR was done in order to harass, mentally torture the petitioner without proper application of mind. Thus, the FIR needs to be quashed in the interest of justice. The grounds on which the petitioner seek to rely for quashing the FIR being registered against him are as follows:-*

(i) The allegation the complaint “Report” that the respondent No. 4 has received threatening messages on 12.07.2019, 13.07.2019 and 17.07.2019 has no concrete evidence to prove that the petitioner has committed the offence of threaten to any person.

Thus, to prosecute a FIR Case when it is known that the petitioner is nowhere involved/related in any unlawful organisation and there is no element of any criminality, the same will not only be unfair to the petitioner but will be injustice to him. Hence, the FIR Case is liable to be quashed.

(ii) The petitioner is an old aged senior citizen and his wife is totally dependent upon him. If the FIR Case is to be prosecuted with adverse consequence effect, the family life of the petitioner will be ruined.

- (iii) *That, the respondent No. 4 namely Mr. Manoj Kumar Jain and his two brother namely Manish Kumar Jain and Mukesh Kumar Jain always tried to assault, harass and mentally torture to the family members of the petitioner. That, the respondent No. 4 along with his brothers namely Mr. Manish Kumar Jain and Mukesh Kumar Jain broke the house of the petitioner and physical assault the petitioner family members and took away all the expensive ornaments, mobile phone, etc. worth above Rs. 2.8 crores (two crores eighty lakhs) from the house of the petitioner in the month of July, 2017. Consequently, the petitioner had filed a complain case being Cril.(C) Case No. 194 of 2018 before the Ld. CJM, Imphal West against Mr. Manoj Kumar Jain & 2 Ors. which is still pending before the Ld. CJM, Imphal West, Manipur."*

[7] Accused No. 2/Mr. Jeetmal Jain @ Jeetmal Manot and accused No. 3/Mr. Jai Singh Jain also filed another petition, being Cril. Petn. being No. 45 of 2019 for quashing the FIR. It is stated that there are civil disputes between accused No. 1 and complainant and accused Nos. 2 & 3 are tenant of accused No. 1 who took on rent a godown on payment of monthly rent of Rs.10,000/- and made a security deposit of Rs. 10,00,000/-. During the pendency of the civil dispute, complainant locked the godown taken on rent by accused Nos. 2 & 3 from accused No. 1. Accused No. 2 also filed several cases before this Court being CRP (Art. 227) No. 7 of 2018, MC(CRP(Art. 227) No. 9 of 2018 with a prayer for handing over the key to the custody, etc. Accused Nos. 2 & 3 also lodged an FIR against the brothers of the complainant herein being FIR No. 47(3) 2018 Heingaing PS U/s 380/411/34 IPC dated 25.03.2018 which was later transferred to City PS as FIR No. 39(3)2018 City PS u/s 380/411/34 IPC for stolen of materials worth Rs. 1,00,000/- from the godown by the brothers of the complainant and trial was pending in respect of Cril.(P) Case No. 9 of 2018 against the brothers of the complainant and other

persons in the court of learned Chief Judicial Magistrate, Imphal West. It is also stated that accused Nos. 2 & 3 have no role in the present case and their names have been included in the FIR to withdraw the FIR lodged by them against the complainant. It is also stated that the subsequent FIR lodged by the complainant is counterblast and in retaliation to the FIR lodged by accused Nos. 2 & 3 against the brothers of the complainant. The grounds taken in the Cril. Petn. 45 of 2019 for the quashing the FIR are reproduced below:

- “A. For that the impugned FIR No. 55(7) 2019 City Police Station U/s 506/120-B IPC, 20/18 UA(P) Act & 66-F (2) IT Act, 2000 lodged by the informant discloses abuse of process of law and as such, the same is liable to be set aside and quashed by this Hon’ble Court.*
- B. For that, the concerned Police Officer, without going into the actual fact of the case and without considering the aspect of the pending civil dispute between the parties has issued a summon in message form against the petitioner and as such, the continuance of the investigation would be an abuse of the process of the law to avoid admitted civil liabilities and therefore, the impugned FIR No. 55(7) 2019 City Police Station U/s 506/120-B IPC, 20/18 UA(P) Act & 66-F (2) IT Act, 2000 is liable to be set aside.*
- C. For that, the allegations made in the complaint dated 21.07.2019 are patently abused and inherently improbable so as to reach a conclusion that there is sufficient ground for proceeding against the accused petitioners and as such, the continuance of investigation against the present petitioners in FIR No. 55(7) 2019 City Police Station U/s 506/120-B IPC, 20/18 UA(P) Act & 66-F (2) IT Act, 2000 is an abuse of the process of law and as such, the same is liable to be set aside and quashed.*
- D. For that the allegation made in the report dated 21.07.2019 even if they are taken at their face value and accepted entirely does not prima facie constitute any offence under Indian Penal Code which if not quashed would result in gross miscarriage of justice.*

- E. For that the instant FIR was registered only with an intention to pressurize the petitioners to withdraw the pending civil cases against the informant with a malafide intention to gain undue benefit in the pending civil cases before the learned Court below and the Hon'ble High Court of Manipur and for that reason, the impugned FIR No. 55(7) 2019 City Police Station U/s 506/120-B IPC, 20/18 UA(P) Act & 66-F (2) IT Act, 2000 is liable to be set aside and quashed.
- F. For that the instant complaint was lodged in retaliation by the informant immediately after criminal case being Cril.(P) No. 12 of 2019 was registered on 17.05.2019 against the informant pursuant to the FIR case No. 47 (3) 2018 Heingang Police Station under Section 380/411/34 of IPC dated 25.03.2018 lodged by the petitioners only with malafide intention to pressurize the petitioners to withdraw the same which is pending before the learned Chief Judicial magistrate, Imphal West and for that reason the impugned FIR No. 55(7) 2019 City Police Station U/s 506/120-B IPC, 20/18 UA(P) Act & 66-F (2) IT Act, 2000 is liable to be set aside and quashed.
- G. For that the actual dispute is between the informant and the accused No. 1 with regard to plot of land in which the petitioner is merely a tenant and who is suffering for the illegal closure of the godown by the informant which has been rented out to the petitioner resulting in huge monetary loss to the petitioners and to that effect the petitioner has filed a misc. application for allowing the petitioners to take out their materials from the said godown and this instant FIR has been filed by the informant to divert the matter and obstruct the petitioner from getting any effective order with regard to the said godown and for that reason the impugned FIR No. 55(7) 2019 City Police Station U/s 506/120-B IPC, 20/18 UA(P) Act & 66-F (2) IT Act, 2000 is liable to be set aside and quashed.
- H. For that the similarly situated co-accused in the same FIR case has already approached this Hon'ble Court vide Criminal petition No. 39 of 2019 and this Hon'ble Court has been pleased to admit the said petition and has been pleased to grant interim stay vide its order dated 11.09.2019 and as such, the present petitioners being merely a tenants are equally entitled for the interim stay over the

impugned FIR No. 55(7) 2019 City Police Station U/s 506/120-B IPC, 20/18 UA(P) Act & 66-F (2) IT Act, 2000.

- I. For that after filing of the aforesaid report dated 21.07.2019 the informant approached the petitioners and offered to settled the matter unilaterally between them outside the court and accordingly both the parties have entered into an agreement through a Deed of Agreement dated 31.08.2019 and has agreed to withdraw all the cases against each other and as such the impugned FIR No. 55(7) 2019 City Police Station U/s 506/120-B IPC, 20/18 UA(P) Act & 66-F (2) IT Act, 2000 is liable to be set aside and quashed.*
- J. For that the petitioner begs to states that for quashing of FIR case, the Apex Court has laid down some guidelines in the case of State of Haryana –vs- Bhajan Lal (1992)Suppl.(1) SCC 335 which is mentioned below:*

“102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we given the following categories of cases by way of illustration wherein such power could be exercised either to present abuse of the process of any Court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelized and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised. The one of the point for quashing of FIR/Complaint is where a criminal proceeding is manifestly attended with malafide and/ or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.

From the above facts and circumstances, it clearly comes out that the FIR has been filed with malafide intention with an ulterior motive to gain undue advantage on the petitioner as the same has been filed to divert the petitioners from withdrawing the Criminal case registered against the informant.

For that reason the impugned FIR No. 55(7) 2019 City Police Station U/s 506/120-B IPC, 20/18 UA(P) Act & 66-F (2) IT Act, 2000 is liable to be set aside and quashed.

- K. For that the frivolity of the offences and vexatious nature of the present prosecution being writ large on the face of the respondent No. 4, it would be an abuse of the process of court, if the FIR case is allowed to be proceeded for getting benefit in civil dispute arose between the respondent No. 4/informant and the petitioner who has been made scapegoat only to pressurize the petitioner to meet the illegal demand of the Informant.*
- L. For that even if the allegations made in the FIR case are taken to be evidence, the same cannot legally be terminated as proof of the ingredients of the alleged offences and therefore, there is no possibility of the present prosecution ending in a conviction. There being not even bleakest possibility of conviction in the present case and as such the impugned FIR No. 55(7) 2019 City Police Station U/s 506/120-B IPC, 20/18 UA(P) Act & 66-F (2) IT Act, 2000 is liable to be set aside and quashed.*
- M. For that, in view of the facts stated above, it is a fit case where this Hon'ble Court may exercise the inherent jurisdiction to prevent the abuse of law and to secure the end of justice.*
- N. For that the petitioner has no other equally efficacious and alternative remedy and therefore, the petitioner is approaching this Hon'ble Court by filing the present petition.*
- O. For that in any view of the matter the impugned FIR No. 55(7) 2019 City Police Station U/s 506/120-B IPC, 20/18 UA(P) Act & 66-F (2) IT Act, 2000 is liable to set aside and quashed."*

[8] Respondent No. 4/complainant filed separate counter affidavits against the above mentioned petitions for quashing the FIR and the major ground of objections are enumerated below:

- (i) The complaint lodged by respondent No. 4 against the accused persons is for investigation against the threatening SMSs received by him from the unlawful militant organization in connection with the pending civil

cases on their instigation and the role of the accused persons are required to be investigated thoroughly.

- (ii) It is stated that wives of the respondent No. 4/complainant and his two brothers purchased the disputed property from accused No. 1 by a registered sale deed for a consideration of Rs. 45,00,000/- and their names were recorded in the land record as per mutation order dated 02.02.2016 of the Ld. SDC Imphal West (Central) in Mutation Case No. 158/SDC/IW(C) of 2016.
- (iii) Accused No. 1 filed O.S. No. 47 of 2017 before the Ld. Civil Judge, Senior Division, Imphal West for recovery of possession of the disputed property and for cancellation of the sale deed dated 15.01.2016 along with an application for temporary injunction of Judl. Misc. Case No. 2 of 2017. The matters reached to this Court and all cases have been disposed of in favour of the complainant and his family members.
- (iv) Accused No. 1 also challenged the mutation order dated 02.02.2016 passed by the Ld. SDC, Imphal West (Central) with the condonation of delay of 436 days and the same was rejected by Ld. Revenue Tribunal, Manipur vide order dated 17.06.2019.
- (v) Accused No. 2 and others also filed O.S. No. 16 of 2017 before the Ld. Civil Judge, Junior Division, Imphal West against accused No. 1 and the wives of the respondent No. 4 and his two brothers for handing over keys of the godown etc. Vide order dated 05.01.2018 in MCA No. 16 of 2017 passed by Ld. District Judge, Imphal West, accused No. 2 and other plaintiffs were directed to vacate the suit land within one month. The said order was challenged before this Court by way of

CRP(Art. 227) No. 17 of 2018. Vide order dated 14.12.2020 passed by this Court in Cril.Rev.Petn. No. 8 of 2017 with CRP(CRP Art. 227) No. 17 of 2018; CRP(CRP Art. 227) No. 7 of 2018; MC(CRP(CRP Art. 227) No. 19 of 2018; MC(CRP(CRP Art. 227) No. 9 of 2018 and WP(C) No. 451 of 2017, all the pending cases were disposed of in favour of the complainant.

- (vi) The present FIR is registered under stringent provisions of law including Sections 18 and 20 of U.A.(Prevention) Act and Section 66-F(2) of IT Act. Therefore, a proper and thorough investigation in the matter is very much required. The complaint in the present FIR clearly shows the commission of the offences alleged against the accused and it discloses cognizable offences which are very much required to be investigated by registering a FIR.
- (vii) Vide order dated 13.12.2019 in Cril.(P) Case No. 12 of 2019 [Ref: FIR No. 39(3)2018 City-PS, U/S 380/411/34 IPC corresponding to FIR No. 47(3)2018 HNG-PS, U/S 380/411/34 IPC] with Cril.Misc.Case No. 221 of 2019 passed by the Chief Judicial Magistrate, Imphal West, the two brothers of the complainant herein and two other persons were discharged and this order attained finality.
- (viii) It is also stated that Cril. Petn. No. 45 of 2019 is not maintainable as State of Manipur has not been impleaded as a party-respondent.
- (ix) The allegations in FIR have no connection with the pending civil disputes and role of the accused in hiring the banned organisation is to be thoroughly investigated.

- (x) The present case does not fall in any of the circumstances enumerated by Hon'ble Apex Court in a catena of cases including the famous case of Bhajan Lal.

[9] The State respondents filed separate but similar counter affidavits to both the petitions stating that the investigation could not be completed in the FIR against the accused persons as the FIR lodged on 21.07.2019 was stayed by this Court on 11.09.2019 and the police barely got less than two months' time for investigation. It is also stated that police is bound to register FIR as prima facie case is made out. It is also stated that one Sapam Kangleipal, the alleged founder member of KCP-Maoist who was arrested in another FIR, disclosed on interrogation that he had no knowledge about the present case and did not give any instruction to his subordinates to threaten the respondent No.4/complainant. It is further reiterated that the FIR cannot be quashed without affording opportunity to complete investigation.

[10] The accused No.1 filed rejoinder affidavit to the counter affidavit filed by the complainant by reiterating the contents of the petition. It is also stated that the complaint does not disclose any offence against him. It is clarified that OS Nos. 47 of 2017 & 40 of 2020 are still pending in the court of learned Civil Judge, Senior Division, Imphal West.

[11] The accused Nos. 2 & 3 also filed rejoinder affidavits to the counter affidavits of the State and the complainant. Reliance is placed on the pleading of State that founder member of the banned outfit was not having any knowledge of the present case and as such there are no materials against them. Referring to Deed of Agreement dated 31.09.2019 executed between the complainant and the accused Nos. 2 & 3 stating that the complaint against them was filed due to misunderstanding and complainant undertook to withdraw their names from the FIR, it is prayed to

quashed the FIR as its continuation would be abuse of process of law causing harassment to them.

[12] The complainant has filed replies to the rejoinder affidavits of the accused persons and reiterated that there are no sufficient grounds for quashing of the FIR. Regarding the Deed of Agreement dated 31.09.2019 executed with the accused Nos. 2 & 3, it is clarified that the same was given to the police on the assurance of the accused that they would not cause any disturbance to him and his family members. There was no approach from his side to amicably settle the case by mediation.

[13] Heard Mr. Leo Rommel, learned counsel for the accused No.1; Mr. Anjan Prasad Sahu, learned counsel for the accused Nos. 2 & 3; Mr. H. Samarjit, learned PP for the State and Mr. T. Rajendra, learned senior counsel assisted by Mr. Bikash Sharma, learned counsel on behalf of the complainant/respondent No.4. As directed by this Court, learned PP has also submitted the original case record of FIR No. 55(07)2019 City PS u/s 506/120-B IPC, 20/18 UA(P) Act & 66F(2) IT Act.

[14] Mr. Leo Rommel, learned counsel for the accused No.1 submits that there are litigations between the complainant and the accused No.1 with regards to property. But the present FIR is lodged against him and others in order to harass and to withdraw the civil cases and the same was as a retaliation to the earlier FIR lodged against the brothers of the complainant. It is pointed out that a civil dispute has been given a criminal colour to unduly harass him. It is further stated that on plain reading of the complaint, no offence is made out against him except for unfounded allegations of having connection with banned outfit. Mr. Leo, learned counsel for the accused No.1 draws the attention of this Court to the pleading of the State respondent that the founder member of the outfit did not have any idea and did not give any instruction for threatening the complainant herein. He relies on the judgment of Gauhati High Court (Imphal Bench) in the case of **Thokchom Jadumani Singh v. State of**

Manipur & Anr.: (2012) 3 Gau LT 136 where it was held that frivolous FIR can be quashed if it does not constitute any offence and charge sheet has been filed without any legally acceptable evidence. Mr. Leo Rommel, learned counsel for the accused No.1 submits that in the present case no offence is made out and criminal colour is given in property dispute and prays that continuation of the FIR will be nothing but abuse of process of law and same is liable to be quashed. No progress is made in the investigation.

[15] Mr. Anjan Prasad Sahu, learned counsel for the accused No. 2 & 3 adopts with the submissions of Mr. Leo Rommel, learned counsel for the accused No.1. He further submits that both the accused Nos. 2 & 3 have no role in the alleged offences which are mainly between the complainant and the accused No.1. They are simply the tenants of the accused No.1 and have wrongly been implicated in the present case. On plain reading of the complaint, nothing is there against them except for mentioning their names. Mr. Anjan Sahu, learned counsel has pointed to the Deed of Agreement dated 31.09.2019 where the complainant specifically admitted that the accused Nos. 2 & 3 were roped in the FIR due to misunderstanding and they have amicably settled the dispute and requested the police for dropping their names from the FIR. Moreover, the founder member of the banned outfit was not aware of the present case and denied issuing any instruction to threaten the complainant herein. Learned counsel has submitted that the present case is classic example where this Court can exercise its inherent power under Section 482 CrPC to do complete justice and prevent abuse of process of law to quash the FIR qua the accused Nos. 2 & 3, when no offence is made out against them.

[16] Mr. Anjan Prasad Sahu, learned counsel for the accused Nos. 2 & 3 refers to the celebrated cases of **State of Haryana v. Bhajan Lal: 1992 Supp (1) SCC 335**, **Randheer Singh v. State of U.P., (2021) 14 SCC 626** and **Mitesh Kumar J. Sha vs. The State of Karnataka and**

Ors.:AIR 2021 SC 5298 where the Hon'ble Supreme Court laid down guidelines for quashing criminal proceedings and specially when criminal colour is given to civil dispute, as done in the case in hand. He also relies to a judgment of Delhi High Court in the case of **Sunil Tomar vs. The State of NCT of Delhi and Ors. (12.04.2022- DELHC) : MANU/DE/1158/2022** with respect to partial quashing of FIR qua a petitioner who is not involved in the case. Relevant portion of these judgments are reproduced below for clear understanding.

[17] In the famous case of **State of Haryana v. Bhajan Lal: 1992 Supp (1) SCC 335**, Hon'ble Supreme Court illustrated the circumstances under which criminal proceedings could be quashed exercising inherent power under Section 482 CrPC of extraordinary power under Article 226 of the Constitution of India.

“102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same

do not disclose the commission of any offence and make out a case against the accused.

(4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.”

[18] In **Randheer Singh v. State of U.P., (2021) 14 SCC 626**, Hon’ble Supreme Court discussed quashing of a criminal complaint under Section 482 CrPC when no offence was made out and a civil dispute was given colour of a criminal offence and held as follows:

“33. In this case, it appears that criminal proceedings are being taken recourse to as a weapon of harassment against a purchaser. It is reiterated at the cost of repetition that the FIR does not disclose any offence so far as the appellant is concerned. There is no whisper of how and in what manner, this appellant is involved in any criminal offence and the charge-sheet, the relevant part whereof has been extracted above, is absolutely vague. There can be no doubt that jurisdiction under Section 482 CrPC should be used sparingly for the purpose of preventing abuse of the process of any court or otherwise to secure the ends of justice. Whether a complaint discloses criminal offence or not depends on the nature of the allegation and whether the essential ingredients of a criminal offence are present or not has to be judged by the High Court. There can be no doubt that a complaint disclosing civil transactions may also have a criminal texture. The High Court has, however, to see whether the dispute of a

civil nature has been given colour of criminal offence. In such a situation, the High Court should not hesitate to quash the criminal proceedings as held by this Court in *Paramjeet Batra*⁸ extracted above.

34. The given set of facts may make out a civil wrong as also a criminal offence. Only because a civil remedy is available may not be a ground to quash criminal proceedings. But as observed above, in this case, no criminal offence has been made out in the FIR read with the charge-sheet so far as this appellant is concerned. The other accused Rajan Kumar has died.

8. *Paramjeet Batra v. State of Uttarakhand*, (2013) 11 SCC 673

[19] In a recent case of **Mitesh Kumar J. Sha vs. The State of Karnataka and Ors. (26.10.2021 - SC) : MANU/SC/0986/2021: AIR 2021 SC 5298**, Hon'ble Supreme Court discussed the practice of giving criminal colour to the civil dispute and held that such cases could be quashed exercising inherent power of court under Section 382 CrPC. Relevant para are reproduced below:

"41. Having considered the relevant arguments of the parties and decisions of this Court we are of the considered view that existence of dishonest or fraudulent intention has not been made out against the Appellants. Though the instant dispute certainly involves determination of issues which are of civil nature, pursuant to which Respondent No. 2 has even instituted multiple civil suits, one can by no means stretch the dispute to an extent, so as to impart it a criminal colour. As has been rightly emphasised upon by this Court, by way of an observation rendered in the case of M/s. Indian Oil Corporation v. M/s. NEPC India Ltd. and Ors. MANU/SC/3152/2006 : (2006) 6 SCC 736, as under:

14. While no one with a legitimate cause or grievance should be prevented from seeking remedies available in criminal law, a complainant who initiates or persists with a prosecution, being fully aware that the criminal proceedings are unwarranted and his remedy lies only in civil law, should himself be made accountable, at the end of such misconceived criminal proceedings, in accordance with law.

42. It was also observed:

13. While on this issue, it is necessary to take notice of a growing tendency in business circles to convert purely civil disputes into criminal cases. This is obviously on account of a prevalent impression that civil law remedies are time consuming and do not adequately protect the interests of lenders/creditors....There is also an impression that if a person could somehow be entangled in a criminal prosecution, there is a likelihood of imminent settlement. Any effort to settle civil disputes and claims, which do not involve any criminal offence, by applying pressure through criminal prosecution should be deprecated and discouraged.

43. On an earlier occasion, in case of G. Sagar Suri and Anr. v. State of UP and Ors. MANU/SC/0045/2000 : (2000) 2 SCC 636, this Court has also observed:

8. Jurisdiction Under Section 482 of the Code has to be exercised with a great care. In exercise of its jurisdiction High Court is not to examine the matter superficially. It is to be seen if a matter, which is essentially of civil nature, has been given a cloak of criminal offence. Criminal proceedings are not a short cut of other remedies available in law. Before issuing process a criminal court has to exercise a great deal of caution. For the Accused it is a serious matter. This Court has laid certain principles on the basis of which High Court is to exercise its jurisdiction Under Section 482 of the Code. Jurisdiction under this Section has to be exercised to prevent abuse of the process of any court or otherwise to secure the ends of justice.

45. Applying this dictum to the instant factual matrix, it can be safely concluded that the present case clearly falls within the ambit of first, third and fifth category of the seven categories enlisted in the above said judgment. The case therefore warrants intervention by this Court, and the High Court has erred in dismissing the petition filed by the Appellants Under Section 482 Code of Criminal Procedure. We find that there has been attempt to stretch the contours of a civil dispute and thereby essentially impart a criminal colour to it.”

[20] In the case of **Sunil Tomar vs. The State of NCT of Delhi and Ors. (12.04.2022 - DELHC) : MANU/DE/1158/2022**, Delhi High Court held that partial quashing of FIR qua some of the accused persons who are

not involved in the criminal case, is permissible and held in para 9 as below:

“9. Partial quashing or part quashing of FIR only qua the petitioner/accused with whom the complainant has compromised or settled the matter can be allowed and while quashing, it must be appreciated that the petitioner/accused cannot be allowed to suffer based on a complaint filed by the respondent, when subsequently, all disputes have been settled between the parties. Reliance can be placed on Poonam Khanna vs. State & Ors. in CrI. M.C. No. 3690/2016 Dated 30.01.2018.”

[21] Relying on the above judgments, Mr. Anjan Prasad Sahu, learned counsel for the accused Nos. 2 & 3, submits that the present case falls within the first, third and fifth circumstances as enumerated in the **Bhajan Lal (supra)** and followed in subsequent cases. Based on the principle of partial quashing of FIR as held in the case of **Sunil Tomar (supra)**, Mr. Sahu impresses upon this Court to quash the FIR qua accused No. 2 & 3, as there is nothing against them and in view of subsequent development of settlement between accused Nos. 2 & 3 and the complainant. This will prevent abuse of process of law and unnecessary harassment to the accused Nos. 2 & 3 when there are no materials for proceedings against them.

[22] Mr. H. Samarjit, learned PP for the State submits that there could not be much progress in the investigation since this Court stayed the FIR within few days of its registration. As enough materials were present, the FIR was lodged and the same cannot be quashed without any investigation that too when serious offences under the unlawful activities and cyber terrorism are involved. Settlement between the complainant and the accused has no bearing in the investigation of heinous offences. It is prayed that the petitions for quashing of FIR may be rejected and the police be permitted to complete the investigation and to file an appropriate report under Section 173 CrPC to the competent court.

[23] Mr. T. Rajendra, learned senior counsel raises the question of the maintainability of the Cril.Petn. No. 45 of 2019 in the counter affidavit, as the petitioners have failed to implead the 'State' as a party respondent. He relies on a decision of Hon'ble Supreme Court in the case of **Thakur Ran v. State of Bihar: AIR 1966 SC 911** which held that in a criminal proceedings 'State' is the aggrieved party and submits that failure to implead 'State' as a party is a serious defect and the petition ought to be rejected on this ground alone. Mr. T. Rajendra, learned senior counsel submits that belated filing of MC(Cril.Petn.) No. 34 of 2022 for correction of inadvertent typographical error in cause title of Respondent No.1 to include 'State' cannot rectify this inherent defect. On the other hand, Mr. Anjan Prasad Sahu, learned counsel for the accused Nos. 2 & 3 submits that this Court has ample power to rectify this inadvertent error in cause title and the petition under Section 482 CrPC ought not to be rejected on hyper technical ground and connected petition being Cril. Petn. No. 39 of 2019 is without such defects.

[24] This Court considers the submissions on the question of maintainability due to non-impleadment of 'State' as a party-respondent. It is true that State is not impleaded as a respondent in Cril. Petn. No. 45 of 2019 and Respondent No.1 is the 'Commissioner/Secretary (Home), Govt. of Manipur'. It is the submission of Mr. T. Rajendra that 'State' cannot be sued in the name of its officer. There is force in the submission, but such defect is not incurable and by allowing the prayer for correction of cause title, the nature of the case will not be changed. It may be pertinent to refer to a **judgment/order dated 02.11.2022 passed by this Court in AB No. 29 of 2022: Smt. Mayanglambam Prabha Devi v. State of Manipur** where a learned Single Judge directed the Registry in Para 32(c) & (d) of the order not to entertain applications where unnecessary respondents like, State represented by Commissioner/Secretary (Home), Secretary to the Government Departments, Superintendents are made parties and only the Officer-in-Charge of the concerned Police Station/Investigation Authority

and the complainant are to be made as parties in bail applications. In view of the above, the preliminary objection to the maintainability is rejected.

[25] Mr. T. Rajendra, learned senior counsel for the complainant submits that there is hardly any investigation in the FIR lodged by the complainant as this Court stayed the same within a few days of its registration. The allegations made in the complaint are very serious due to involvement of banned militant outfit to threaten the complainant to withdraw the pending civil litigations. It is pointed out that the complaint was lodged on receipt of threatening SMSs by the complainant from the militants on behalf of the accused persons. It is stated that the FIR was registered rightly as it disclosed prima facie cognizable offences on bare reading of the complaint as held by the Hon'ble Supreme Court in the case of **Lalita Kumari v. Govt. of U.P.: (2014) 2 SCC 1** and the same does not fall within the exceptions carved out.

[26] In the case of **Lalita Kumari v. Govt. of U.P.: (2014) 2 SCC 1**, a 5-Judge Constitution Bench laid down compulsory registration of FIR if the complaint discloses a cognizable offence and prescribed circumstances under which preliminary inquiry could be held prior to registration of FIR. Para 120 is reproduced below:

“Conclusion/Directions

120. In view of the aforesaid discussion, we hold:

120.1. The registration of FIR is mandatory under Section 154 of the Code, if the information discloses commission of a cognizable offence and no preliminary inquiry is permissible in such a situation.

120.2. If the information received does not disclose a cognizable offence but indicates the necessity for an inquiry, a preliminary inquiry may be conducted only to ascertain whether cognizable offence is disclosed or not.

120.3. If the inquiry discloses the commission of a cognizable offence, the FIR must be registered. In cases where preliminary inquiry ends in closing the complaint, a copy of the entry of such closure must be supplied to the first informant

forthwith and not later than one week. It must disclose reasons in brief for closing the complaint and not proceeding further.

120.4. The police officer cannot avoid his duty of registering offence if cognizable offence is disclosed. Action must be taken against erring officers who do not register the FIR if information received by him discloses a cognizable offence.

120.5. The scope of preliminary inquiry is not to verify the veracity or otherwise of the information received but only to ascertain whether the information reveals any cognizable offence.

120.6. As to what type and in which cases preliminary inquiry is to be conducted will depend on the facts and circumstances of each case. The category of cases in which preliminary inquiry may be made are as under:

- (a) Matrimonial disputes/family disputes
- (b) Commercial offences
- (c) Medical negligence cases
- (d) Corruption cases
- (e) Cases where there is abnormal delay/laches in initiating criminal prosecution, for example, over 3 months' delay in reporting the matter without satisfactorily explaining the reasons for delay.

The aforesaid are only illustrations and not exhaustive of all conditions which may warrant preliminary inquiry.”

[27] Mr. T. Rajendra, learned senior counsel submits that on plain reading of the complaint lodged by the respondent No.4, there is a clear nexus between the accused persons and the banned militant outfit who threatened the complainant via SMSs to withdraw the pending cases. In such circumstances, registration of FIR is proper as mandated by **Lalita Kumari (supra)** and no inquiry is required prior to its registration. It is pointed out that the present case does not fall into any of the exceptions enumerated in the above cited case. Since the investigation was stayed by this Court at the very beginning, further progress could not be made. It is submitted that the investigation be permitted to reach a logical conclusion and quashing of FIR at this stage, is not warranted in the peculiar facts of the present case.

[28] Regarding the question of quashing of the criminal proceedings, Mr. T. Rajendra, learned senior counsel for the complainant

draws the attention of this Court to the dictum of Hon'ble Apex Court in the case of **Bhajan Lal (supra)** and emphasises that this extraordinary power can be resorted, only when no case is made out and to prevent abuse of process of law. He also refers to the case of **Rakhi Mishra v. State of Bihar: (2017) 16 SCC 772 : AIR 2017 SC 4019**, where Hon'ble Supreme Court held that FIR can be quashed only if prima facie case is not made out and not otherwise. Para 4 & 5 are quoted for clear understanding.

"4. We have heard the learned counsel appearing for the parties. We are of the considered opinion that the High Court erred in allowing the application filed by Respondents 2, 4, 5, 6, 7, 8, 9 and 10 and quashing the criminal proceedings against them. A perusal of the FIR would clearly show that the appellant alleged cruelty against Respondents 2, 4, 5, 6, 7, 8, 9 and 10. This Court in *Sonu Gupta v. Deepak Gupta*² held as follows: (SCC p. 429, para 8)

"8. ... At the stage of cognizance and summoning the Magistrate is required to apply his judicial mind only with a view to take cognizance of the offence ... to find out whether a prima facie case has been made out for summoning the accused persons. At this stage, the learned Magistrate is not required to consider the defence version or materials or arguments nor is he required to evaluate the merits of the materials or evidence of the complainant, because the Magistrate must not undertake the exercise to find out at this stage whether the materials would lead to conviction or not."

5. The order passed by the trial court taking cognizance against R-2 and R-4 to R-9 is in conformity with the law laid down in the above judgment. It is settled law that the power under Section 482 CrPC is exercised by the High Court only in exceptional circumstances only when a prima facie case is not made out against the accused. The test applied by this Court for interference at the initial stage of a prosecution is whether the uncontroverted allegations prima facie establish a case."

2. *Sonu Gupta v. Deepak Gupta*, (2015) 3 SCC 424

[29] With respect to quashing of non-compoundable offences upon mutual settlement between the complainant and the accused, Mr. T. Rajendra, learned senior counsel clarifies that such jurisdiction cannot be exercised when the alleged offence is heinous one, unlike private injury

such as cheating, etc. He relies on the case of **State of M.P. v. Laxmi Narayan, (2019) 5 SCC 688**, where Hon'ble Supreme Court laid down the guidelines for quashing criminal proceeding of non-compoundable offences when settlement has been arrived between the complainant and the accused persons in predominantly civil character criminal cases.

“15. 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:

15.1. That the power conferred under Section 482 of the Code to quash the criminal proceedings for the non-compoundable 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;

15.2. 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;

15.3. 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;

15.4. 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/delicate 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 paras 29.6 and 29.7 of the decision of this Court in *Narinder Singh*² should be read harmoniously and to be read as a whole and in the circumstances stated hereinabove;

15.5*. 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 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.

16. Insofar as the present case is concerned, the High Court has quashed the criminal proceedings for the offences under Sections 307 and 34 IPC mechanically and even when the investigation was under progress. Somehow, the accused managed to enter into a compromise with the complainant and sought quashing of the FIR on the basis of a settlement. The allegations are serious in nature. He used the firearm also in commission of the offence. Therefore, the gravity of the offence and the conduct of the accused is not at all considered by the High Court and solely on the basis of a settlement between the accused and the complainant, the High Court has mechanically quashed the FIR, in exercise of power under Section 482 of the Code, which is not sustainable in the eye of the law. The High Court has also failed to note the antecedents of the accused.

17. In view of the above and for the reasons stated, the present appeal is allowed. The impugned judgment and order dated 7-10-2013 passed by the High Court in *Laxmi Narayan v. State of M.P.*⁵ is hereby quashed and set aside, and the FIR/investigation/criminal proceedings be proceeded against the accused, and they shall be dealt with, in accordance with law.

Criminal Appeal No. 350 of 2019

18. So far as criminal appeal arising out of SLP No. 10324 of 2018 is concerned, by the impugned judgment and order¹⁶, the High Court has quashed the criminal proceedings for the

offences punishable under Sections 323, 294, 308 and 34 IPC, solely on the ground that the accused and the complainant have settled the matter and in view of the decision of this Court in *Shiji*⁶, there may not be any possibility of recording a conviction against the accused. Offence under Section 308 IPC is a non-compoundable offence. While committing the offence, the accused has used the firearm. They are also absconding, and in the meantime, they have managed to enter into a compromise with the complainant. Therefore, for the reasons stated above, this appeal is also allowed, the impugned judgment and order dated 28-5-2018 passed by the High Court in *Narendra Singh Rajput v. State of M.P.*¹⁶ is hereby quashed and set aside, and the FIR/investigation/criminal proceedings be proceeded against the accused, and they shall be dealt with, in accordance with law.”

2. *Narinder Singh v. State of Punjab*, (2014) 6 SCC 466

5. *Laxmi Narayan v. State of M.P.*, 2013 SCC OnLine MP 7987

16. *Narendra Singh Rajput v. State of M.P.*, 2018 SCC OnLine MP 1150

[30] Mr. T. Rajendra, learned senior counsel refers to a recent judgment in the case of **Daxaben vs. The State of Gujarat and Ors. (29.07.2022 - SC) : MANU/SC/0939/2022: AIR 2022 SC 3530**, where Hon’ble Supreme Court held that quashing of a non-compoundable serious offence on compromise between the complainant and the accused party cannot be resorted and such jurisdiction can be exercised only in case of private injury, civil in nature. Relevant para are reproduced as below:

“37. Offence Under Section 306 of the Indian Penal Code of abetment to commit suicide is a grave, non-compoundable offence. Of course, the inherent power of the High Court Under Section 482 of the Code of Criminal Procedure is wide and can even be exercised to quash criminal proceedings relating to non-compoundable offences, to secure the ends of justice or to prevent abuse of the process of Court. Where the victim and offender have compromised disputes essentially civil and personal in nature, the High Court can exercise its power Under Section 482 of the Code of Criminal Procedure to quash the criminal proceedings. In what cases power to quash an FIR or a criminal complaint or criminal proceedings

upon compromise can be exercised, would depend on the facts and circumstances of the case.

38. However, before exercising its power Under Section 482 of the Code of Criminal Procedure to quash an FIR, criminal complaint and/or criminal proceedings, the High Court, as observed above, has to be circumspect and have due regard to the nature and gravity of the offence. Heinous or serious crimes, which are not private in nature and have a serious impact on society cannot be quashed on the basis of a compromise between the offender and the complainant and/or the victim. Crimes like murder, rape, burglary, dacoity and even abetment to commit suicide are neither private nor civil in nature. Such crimes are against the society. In no circumstances can prosecution be quashed on compromise, when the offence is serious and grave and falls within the ambit of crime against society.

39. Orders quashing FIRs and/or complaints relating to grave and serious offences only on basis of an agreement with the complainant, would set a dangerous precedent, where complaints would be lodged for oblique reasons, with a view to extract money from the Accused. Furthermore, financially strong offenders would go scot free, even in cases of grave and serious offences such as murder, rape, bride-burning, etc. by buying of informants/complainants and settling with them. This would render otiose provisions such as Sections 306, 498-A, 304-B etc. incorporated in the Indian Penal Code as a deterrent, with a specific social purpose.

40. In Criminal Jurisprudence, the position of the complainant is only that of the informant. Once an FIR and/or criminal complaint is lodged and a criminal case is started by the State, it becomes a matter between the State and the Accused. The State has a duty to ensure that law and order is maintained in society. It is for the state to prosecute offenders. In case of grave and serious non-compoundable offences which impact society, the informant and/or complainant only has the right of hearing, to the extent of ensuring that justice is done by conviction and punishment of the offender. An informant has no right in law to withdraw the complaint of a non-compoundable offence of a grave, serious and/or heinous nature, which impacts society.

.....

42. In *Narinder Singh v. State of Punjab* (2014) 9 SCC 466 (sic MANU/SC/0235/2014 : (2014) 6 SCC 466), this Court held that in case of heinous and serious offences, which are generally to be treated as crime against society, it is the duty of the State to punish the offender. Hence, even when there is a settlement, the view of the offender and victim will not prevail since it is in the interest of society that the offender should be punished to deter others from committing a similar crime.

.....

49. In exercise of power Under Section 482 of the Code of Criminal Procedure, the Court does not examine the correctness of the allegation in the complaint except in exceptionally rare cases where it is patently clear that the allegations are frivolous or do not disclose any offence.

50. In our considered opinion, the Criminal Proceeding cannot be nipped in the bud by exercise of jurisdiction Under Section 482 of the Code of Criminal Procedure only because there is a settlement, in this case a monetary settlement, between the Accused and the complainant and other relatives of the deceased to the exclusion of the hapless widow of the deceased. As held by the three-Judge Bench of this Court in *Laxmi Narayan and Ors.* (supra), Section 307 of the Indian Penal Code falls in the category of heinous and serious offences and are to be treated as crime against society and not against the individual alone. On a parity of reasoning, offence Under Section 306 of the Indian Penal Code would fall in the same category. An FIR Under Section 306 of the Indian Penal Code cannot even be quashed on the basis of any financial settlement with the informant, surviving spouse, parents, children, guardians, care-givers or anyone else. It is clarified that it was not necessary for this Court to examine the question whether the FIR in this case discloses any offence Under Section 306 of the Indian Penal Code, since the High Court, in exercise of its power Under Section 482 Code of Criminal Procedure, quashed the proceedings on the sole ground that the disputes between the Accused and the informant had been compromised.”

[31] Mr. T. Rajendra, learned senior counsel for the complainant further submits that the deed of compromise was executed on the asking of the accused Nos. 2 & 3 on their undertaking not to disturb the complainant and his family in future. Even if, the same is to be presumed to be genuine, the FIR relating to heinous offences under unlawful act and cyber terrorism cannot be quashed as held in the cases of **Laxmi Narayan (supra)** and **Daxaben (supra)**. It is also submitted that partial quashing cannot be resorted as submitted above and prays for rejecting the petitions for quashing of FIR and to allow the investigation to reach its logical conclusion.

[32] This Court considers the factual matrix of the case in totality and the relevant law in this regard and also perused the case diary minutely.

[33] It is a fact that the present FIR involves heinous offences such as Sections 18/20 UA(P) Act, 66-F(2) IT Act along with criminal conspiracy under Section 120-B IPC. On perusal of threatening SMSs sent allegedly from banned outfit to the complainant on the instigation by the accused persons, prima facie materials are present warranting registration of FIR and for investigation to find out the true facts of the case. It is not merely a civil case being converted into a criminal case. It is also a fact that numerous cases involving property disputes are there between the parties. But the present case is registered on the basis threatening SMSs from the banned militant outfit. On plain reading of the SMSs (from the case diary), there are ample materials to proceed with investigation to examine the involvement of the accused persons. After a thorough inquiry, a definite opinion can be made about the complexities of the accused. On the sole basis of mutual settlement between the complainant and the accused Nos. 2 & 3, the present FIR involving heinous offences ought not to be quashed that too at an early stage, as held in **Daxaben (supra)**. Unfortunately, there could not be much progress in the investigation, as the FIR registered on 12.07.2019 was stayed by this Court vide order dated 11.09.2019. Hence,

the plea of no progress in investigation cannot be considered in the present case. The cases referred by Mr. Leo Rommel and Mr. Anjan Sahu, learned counsel for the accused Nos. 1, 2 & 3 are not applicable to the present case. In those case, no materials are found after thorough investigation. In the present case, the investigation is yet to be completed and it at an early stage to the stay order. This Court is of the view that presence of sufficient materials for proceeding against the accused persons can be ascertained only after a thorough inquiry. Upon a report submitted under Section 173 CrPC, the competent court has to make a decision on the basis of the materials found by the investigating agency.

[34] In view of the discussions above, this Court is of the opinion that the present FIR requires thorough investigation regarding the involvement of the accused persons and is not inclined to quash FIR No. 55(07)2019 City PS u/s 506/120-B IPC, 20/18 UA(P) Act & 66-F(2) IT Act. Accordingly, Cril. Petn. Nos. 39 of 2019 and 45 of 2019 are rejected. Interim orders are vacated. Pending applications are disposed of. Parties are to bear their own costs.

[35] This Court does not express any opinion on merit of the case, except for those facts relevant for disposal of the present case. An endeavour shall be made to complete the investigation as expeditiously as possible, preferably within a period of 6 (six) months from the date of receipt of this order. Return the case diary along with a copy of this order.

JUDGE

FR/NFR

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