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**IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE**

**BEFORE
HON'BLE SHRI JUSTICE VIJAY KUMAR SHUKLA**

ON THE 28th OF FEBRUARY, 2023

CRIMINAL APPEAL No. 505 of 2013

BETWEEN:-

**RAMBABU S/O PANNALAL, AGED ABOUT 32 YEARS,
VILLAGE MAGARIYADEH P.S. KALIPITH (MADHYA
PRADESH)**

.....APPELLANT

(BY SHRI ANIRUDDHA SAXENA - ADVOCATE)

AND

**THE STATE OF MADHYA PRADESH GOVT. THRU. P.S.
KALPEETH DISTT. RAJGARH (MADHYA PRADESH)**

.....RESPONDENT

**(SHRI RAGHVENDRA SINGH BAIS - GOVT. ADVOCATE FOR
RESPONDENT/STATE) (SHRI AKHILESH KUMAR CHOUDHARY -
ADVOCATE FOR OBJECTOR)**

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*This appeal coming on for orders this day, the court passed the
following:*

ORDER

Heard on IA No.535/2023 and IA No.536/2023.

The appellant has been convicted under Section 435 of IPC and sentenced to undergo RI for 3 years with fine of Rs.4000/- and in case of default of payment of fine, S.I. for 6 months.

Learned counsel for the appellant submits that the matter has been compromised between the parties and they have settled their dispute voluntarily.

They do not want to continue the dispute. They are living peacefully and maintaining good relation. The incident is said to have taken place in the year

2012.

Counsel for the State submits that the offence under Section 435 of IPC is non-compoundable. therefore, the offence cannot be compounded under section 320 of the Cr.P.C.

The Apex Court in the case of *Gian Singh Vs. State of Punjab and Anr.* reported in (2012) 10 SCC 303 after considering the provisions of section 320 and 482 of the Cr.P.C held that the compounding was permitted in a non-compoundable offence. Relevant part of the order of the order reads as under :-

"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.

B.S.Joshi, Nikhil Merchant, Manoj Sharma and Shiji 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."

In a subsequent order, in the case of *Narinder Singh and Ors Vs. State of Punjab And Anr* passed in Criminal Appeal No.686/2014 dated 27.03.2014 after relying on the judgment passed in the case of *Gian Singh* (supra), the Apex Court permitted the compounding in a non-compoundable case and quashed the criminal proceedings.

After hearing learned counsel for the parties and taking into consideration that

the incident had taken place in the year 2012 and the parties have arrived at a compromise voluntarily without any threat, inducement or coercion and they have amicably resolved their disputes and they are living peaceful life, I am of the view that no purpose would be served in sending the appellant to the jail after such long period, therefore, the application(s) for compounding is allowed in view of the judgments passed by the Apex Court in the cases of *Gian Singh and Narinder Singh* (supra). The appellant is acquitted of all the charges. He shall be released forthwith, if not required in any other case. His bail bonds stand discharged.

With the aforesaid, the present appeal stands disposed off.

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(VIJAY KUMAR SHUKLA)
JUDGE

