12.05.2026
Sl. No.01
PA
Ct.No.29.

CRAN/2/2026

With
CRR/3174/2018
Goutam Saha & Ors.
Vs.
The State of West Bengal & Anr.

Mr. Ayan Bhattacherjee, Sr. Adv.,
Mr. Aditya Ratan Tiwary,
Mr. Arpit Choudhury

...for the petitioner

Mr. Karan Dudhwewala,
Mr. Mukesh Pandey,
Mr. Rahul Tiwari

...for the applicant no.6.

Mr. Debasish Roy, Ld.P.P.,
Mr. Anand Keshari,
Mr. Bikram Mitra

...for the State

1. This connected application being CRAN 2 of 2026 has been preferred with a prayer for composition of an offence on the ground of post revisional settlement after the final order passed by this court on 2nd March, 2026, in the revisional Application being CRR 3174/2018, by which this court altered the conviction of the petitioners from section 326 to section 325 of the Indian Penal Code and thereby reduced the sentence to suffer simple imprisonment for 6 months along with fine.

2. Let me first reiterate the background of the case. On March, 21 2010 the complainant/ applicant herein lodged an FIR alleging commission of offence punishable under section 326/34 of the IPC against 6 accused persons. After trial by a judgment and order dated February, 26 2019 the trial court convicted all the 6 accused persons under section 326/34 of the IPC and was further pleased to sentence

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them to rigorous imprisonment of one year along with fine of Rs. 5000/-, in default further rigorous imprisonment for two months.

3. Being aggrieved by and dissatisfied with the judgment and order passed by the trial court, the convicted persons preferred an appeal before the Chief Judge, City Sessions Court, being Criminal Appeal no. 21 of 2018. Said appeal was finally heard and disposed of by the appellate Court vide judgment and order dated September, 10 2018, thereby affirming the judgment and order dated February, 26,2018 passed by the trial court.

4. Being aggrieved by and dissatisfied with the judgment of the appellate court, the convicted persons preferred the aforesaid application being CRR 3174 of 2018 and this High Court by a judgment and order dated March, 2 2026 was pleased to partly allow the same, thereby altering the conviction of the applicants under section 326 of the IPC to Section 325 of the IPC and thereby sentencing them to suffer simply imprisonment for 6 months along with fine as stated above.

5. After the aforesaid order passed by this High Court, the applicants herein have entered into a settlement and thereby entered into a compromise agreement and as such applicants herein filed the instant connected application being CRAN 2 of 2026 on 19.03.2026.

6. Mr. Ananada Keshari, learned Counsel appearing for the State opposed such prayer and argued that a court which has passed a final judgment and order becomes *functus officio* and cannot pass any order in respect of the subject matter in view of specific bar as enshrined under section 362 of the Code. Relying upon the judgment of ***P.A. Damodaran Vs. State,*** **(1992) SCC Online Ker 141** and ***Tanveer Aquil Vs. State of M.P.,*** **1990 (sup) SCC 63,** he argued that such prayer cannot be entertained. He further referred ***Smt. Sooraj Devi Vs. Pyare Lal & Ors***.

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reported in **(1981) 1 SCC 500** and contended that after the judgment is pronounced on the same facts, powers under section 482 of the code cannot be invoked in view of the specific bar under section 362 of the Code. He further submits that the same positon has been reiterated in ***Hari Singh Mann Vs. Harbajan Singh Bajwa & Ors.*** reported in **(2001) 1 SCC 169** and contended that the practice of filing miscellaneous petitions after the disposal of the main case seeking issuance of fresh direction in such miscellaneous petition before the High Court, are unwarranted and not referable to any statutory provision and in substance the abuse of the process of the Court.

7. Therefore, he argued that once the High Court has disposed of the main lis pending before it, then the High Court becomes *functus officio* and cannot pass any order whatsoever even in a change of circumstance. He further submits that the parties have placed reliance upon some authorities but the ratio laid down in the said judgments are not applicable in the present context, in view of the fact that all those cases had arisen under the special provision of the Negotiable Instrument Act, which is not the case in the present context. Therefore, Mr. Keshri on behalf of the State prayed for dismissal of such composition prayer.

8. Therefore, the questions that have arisen for consideration in the present context are:

(i) Can composition of offence under section 325/34 of IPC even after the conviction and sentence have become final after the judgments of the trial, appellate and revisional court/High Court be accepted, in view of bar under section 362 Cr.P.C.

(ii) If the trial, appellate and revisional court i.e. High Court have become *functus officio* after delivery of their respective

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judgment, can the same High Court has any inherent power under section 482 to accept such composition and can relieve the accused persons of the obligation to undergo the sentences.

9. At the outset let me reproduce section 362 of Cr.P.C. which runs as follows:-

> ***362. Court not to alter judgment.***
>
> *Save as otherwise provided by this Code or by any other law for the time being in force, no Court, when it has signed its judgment or final order disposing of a case, shall alter or review the same except to correct a clerical or arithmetical error.*

10. Therefore under the provision, the judgment which has already been rendered cannot be altered by the trial court, appellate Court or the revisional court. A trial, appellate or revisional court, which has become *functus officio* cannot therefore generally accept a subsequent composition and alter its own earlier judgement and it cannot convert the same to a deem acquittal under section 320(8) of Cr.P.C.

11. Before going any further let me clarify that *functus officio* is a latin term meaning *'having performed the office'* which implies that once a court tribunal or authority has pronounced a final judgement or signed a final order, its authority over that specific matter is exhausted and as a general rule, such a Court cannot re-examine, review or alter its own decision on merits. In other words once a court becomes *functus officio* it cannot;

(i) re hear the case on its merits

(ii) Revise its own decision just because it changed its mind

(iii) Recall its final order in the absence of a statutory provision enabling it to do so

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12. However a court which has become *functus officio* though cannot reopen the case, but it can still entertain specific limited prayer allowed by law primarily corrections of clerical errors, essential procedural amendments or matters authorized by inherent powers or statute.

13. Now let me consider the facts and circumstance of the present case in the light of above rule, i.e. 'once a court becomes *functus officio* what a court cannot do'.

14. The Unique feature of the instant case is that the parties have settled their age old dispute only after the conviction under section 326 of IPC was converted to section 325 of IPC vide judgment and order dated 02.03.2026 passed by this High Court in CRR 3175 of 2017. It is apposite to mention that the right of compounding was not available before on account of the fact that the offence under section 326 of IPC is not compoundable.

15. It is no more *res integra* that for the composition of offence by a revisional court, there is no requirement that lis must be pending unlike an appellate court, which can exercise power of compounding provided an appeal is pending. No such stipulation is prescribed in case of power of revision. A power of revision under section 397 unlike power of appeal can be exercised *suo moto* without their being an existing lis or an applicant before the court. Furthermore section 320 of Cr.P.C. does not prescribe any embargo for compounding of offence after disposal by invocation of inherent power under section 482 of Cr.P.C. The present case is unique one wherein the power of compounding had accrued only after conversion of conviction under section 325 of IPC to section 326 of IPC by this court in CRR 3174 of 2018. Therefore the right of compounding was not available earlier. Such right has been exercised by the parties at the earliest and as such it should not be rendered nugatory

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without considering other factors. It would amount to misinterpretation of the intention of the legislature that if some right is conferred to the parties at the same breath, it can also be taken away on the ground of technicalities.

16. Earlier in one case this High Court converted the conviction of appellant from section 3 (1) (XI) of Schedule Castes and Scheduled Tribes (prevention of atrocities) Act 1989 to section 354 IPC and thereby modified the sentence. Thereafter parties arrived at a compromise. Application was made to this High Court for grant of permission to compound the offence. The High Court vide impugned order dated 10.12.2012 passed in **P. Ramaswamy Vs. State,** Criminal Appeal no. 11 of 2012 (decided on 10.12.2012) held that once the judgement has been delivered by the court, the court becomes *functus officio* and in the absence of any pending lis, it cannot entertain the application seeking to compound the offence and this High Court further observed that remedy of the parties was to move before the Supreme Court, which is also the same argument herein made on behalf of the state. The Apex Court while dealt with the matter has observed in **P. Ramaswamy, (2013) 14 SCC 577**, in para 12 as follows:-

> ***12.*** *In the circumstances, without going into the question whether the High Court was right in refusing to take the compromise on file and compound the offence, we deem it appropriate to grant permission to compound the offence. Hence, we permit the appellant, the complainant and the victim to compound the offence under Section 354 IPC. The said offence shall stand compounded. As per Section 320(8) of the Criminal Procedure Code the composition of this offence shall have the effect of acquittal of the offence under Section 354 IPC. Hence, the appellant is acquitted of the charge under Section 354 IPC. In view of this the impugned orders dated 13-7-2012 [P. Ramaswamy v. State, Criminal Appeal No. 1 of 2011, decided on 13-7-2012 (Cal)] and 10-12-2012 [P. Ramaswamy v. State, Criminal Appeal No. 11 of 2012, decided on 10-12-2012 (Cal)] passed by the Calcutta High Court are set aside. If the appellant is in jail, he is directed to be released forthwith unless otherwise required in any other case.*

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17. Even in **Tanveer Aquil's case** (supra) the supreme Court has permitted the parties to go back to the Magistrate, even after order of conviction was affirmed by the High Court.

18. Mr. Keshri learned counsel for the state heavily relied upon the judgment of ***P.A. Damodaran Vs. State.*** In **Damodaran Case** (Supra) and in **Tanveer Aquil** case (supra) the observations are well settled and there is no quarrel with the proposition of law that a post revision composition cannot be readily accepted. It reiterates the principles that a trial, appellate or revisional court which is *functus officio,* in respect of a subject matter, cannot thereafter exercise power in respect of such disposed of matter in view of section 362 Cr.p.C.

19. Now in the present circumstances the issue is where the right of compounding the offence had accrued to the parties for the first time after conversion of conviction by the revisional court, whether the applicants are remediless, though they have buried the hatchet and the statute confers them right to make prayer for compounding the offence or their remedy is either to undergo sentence even after composition of offence alternatively to approach before the Supreme Court, since High Court has become *functus officio* after delivery of judgement.

20. It needs to be mentioned that the **Damodaran Vs. State** (Supra) Case or **Tanveer Aquil Case** (supra) had not dealt with a situation where post revision, there has been substantial change in the circumstances with the delivery of the judgment by the High Court, where it converted the conviction from a non-compoundable offence to a compoundable offence and the applicants who have made amicable settlement after the delivery of the judgment and thereafter have made a request before this court by filling a separate connected application for composition of the

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offence, invoking this courts inherent jurisdiction under section 482 of the Cr.P.C.

21. In fact after conversion of conviction, the right to compounding offence accrued to the parties for the first time and it was not available to them before pronouncement of the judgement by the High Court. Such a situation was dealt with by the Apex Court in ***Mostt. Simrikhia Vs. Smt. Dolley Mukherjee*** reported in **1990 Criminal Law Journal 1599** where it was observed

> *"if there had been change in the circumstances of the case, it would be in order for the High Court to exercise its inherent powers in the prevailing circumstances and pass appropriate orders to secure the ends of justice or to prevent the abuse of the process of the court. Where there is no such changed circumstances and the decision has to be arrived at on the facts that existed as on the date of the earlier order, the exercise of the power to reconsider the same materials to arrive at different conclusion is in effect a review, which is expressly barred under S. 362.*

22. In the instant case when the revisional application being CRR 3174 of 2018 was disposed of by this Court, the circumstances that the parties settled the dispute and complainant compounded the offence, was not there at all. It is after conversion of conviction, the right to compounding offence awarded under section 325 IPC accrued to the parties, Therefore the decision in **Mostt. Simrikhia** (supra) squarely applicable in the present case. In **Mostt. Simrikhia** case, an earlier Application under section 482 Cr.P.C. was dismissed but still the supreme Court held that a change of circumstances is sufficient to justify the invocation of the power afresh under section 482 Cr.P.C., notwithstanding the bar under section 362 Cr.P.C. In the instant case though the petitioners cited section 482 Cr.P.C. in the application but the power under section 482 Cr.P.C. had not been sought to invoke earlier. The judgment passed in CRR 3174 of 2018 was passed invoking this courts revisional power under section 397/401 of the Cr.P.C. The decision relied by the State did not express the opinion that the

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jurisdiction under section 482 of Cr.P.C. cannot be invoked after disposal of the revisional application, in view of the bar under section 362.

23. Therefore in a situation like this, what pricks in my conscience is that when the composition under section 325 is statutorily recognized and when the parties have agreed to compound the offence after conversion of conviction from section 326 to 325 by this Court, why the applicants/convicted persons still be compelled to undergo a substantive sentence of incarceration in prison, alternatively they will have to prefer a special leave application before the Apex Court, seeking composition. Since the question of deprivation of liberty arises in case of refusal of composition, recognized by law, such circumstance must be weighed with the Court, while considering the question as to whether powers under section 482 Cr.P.C can be invoked in cases like the instant one.

24. Therefore, the ratio laid down in **Damodaran Case** (supra) and **Tanveer** case (supra) as relied upon by the State is on other context where observation made therein, is well settled that a post revision composition cannot be readily accepted. In the present case due to conversion of sentence from section 326 to 325, there appears to be a change of circumstance and therefore, prayer for composition made by the petitioners neither amounts to rehear the case on its merit nor it amounts to review its own decision on the ground that it changed its mind nor it amounts to recalling its final order as applicable to a court who has become *functus officio.*

25. The next question that needs to be elaborated is whether this court can invoke jurisdiction under section 482 of Cr.P.C. to give effect to such a composition, which has been legally arrived at, but for the acceptance of which there is no specific stipulation of law. Section 482 may be quoted below

> ***482. Saving of inherent powers of High Court.***
>
> *Nothing in this Code shall be deemed to limit or affect the inherent powers of the High Court to make such orders as may be necessary to give effect to any order under this Code, or to prevent abuse of the process of any Court or otherwise to secure the ends of justice.*

26. The power under section 482 Cr.P.C is *sui generis one*. Such power is enjoyed by the High Court by virtue of its establishment. Even after disposal of revision, this High Court can exercise such power under section 482 of Cr.P.C. and pass order necessary for *Ex-debito justitiae.* The doctrine of *functus officio* will yield to justice for which law exists. In order to dispense justice a High Court can exercise its inherent power under section 482 Cr.P.C. and pass necessary order for *Ex debitio justitiae.* Therefore, even after disposal of the revision, a High Court can accept the compounding and pass necessary order by invoking its inherent jurisdiction under section 482 Cr.P.C., on account of circumstantial change, which was not present before the High Court when the revision was disposed of by this High Court. In this context a relevant observation passed in ***Rajendra Prasad Gupta Vs. Prakash Chandra Mishra & Ors.*** Reported in **(2011) 2 SCC 705** by the Apex court though in a different context, may be reproduced below:-

> ***4.*** *We do not agree. Rules of procedure are handmaids of justice. Section 151 of the Code of Civil Procedure gives inherent powers to the court to do justice. That provision has to be interpreted to mean that every procedure is permitted to the court for doing justice unless expressly prohibited, and not that every procedure is prohibited unless expressly permitted. There is no express bar in filing an application for withdrawal of the withdrawal application.*

27. In ***Sakiri Vasu Vs. State of U.P.*** reported in **(2008) 2 SCC 409** Supreme Court observed:-

> ***18.*** *It is well settled that when a power is given to an authority to do something it includes such incidental or implied powers which would ensure the proper doing of that thing. In other words, when any power is expressly granted by the statute, there is impliedly included in the grant, even without special mention, every power and every control the denial of which would render the grant itself ineffective. Thus where an Act confers jurisdiction it impliedly also grants the power of doing all such acts or employ such means as are essentially necessary for its execution.*

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28. Now one more issue needs to be pondered before parting with the order i.e. whether invocation of such power under section 482 after final order being passed, would militate against the majesty of law and the finality of decision already rendered. Such question has been answered by a Co-ordinate Bench of Kerala High Court in ***Sabu George and Ors. Vs. the Home Secretary, Union of India and anr.*** reported in **2007 SCC Online Ker 243** where in para 37 it was observed:-

> ***"37.*** *Will not such invocation of the powers militate against the majesty of law and the finality of decisions rendered? If composition can be reached at any time after the conviction and sentence have become final, what respect can decisions of the Courts command? These questions do disturb me. But in final analysis they do not persuade me to hold differently. The offence is compoundable. Parties have settled their disputes amicably. Complainants have voluntarily compounded the offence. There is no specific bar against such composition after the finality of the conviction and sentence. The offence is only one under Section 138 of the N.I. Act. If the powers under Section 482 Cr. P.C. were not invoked by this Court, the petitioners will have to necessarily undergo the dreadful ordeal of punitive incarceration in prison. By being humane and considerate towards such an accused who has made amends and reversed his culpable conduct, the majesty of law will not suffer at all. Quality of mercy is the most important dimension of justice. I hold that these are fit cases to invoke the powers under Section 482 Cr. P.C.*"

29. Having considered the aforesaid facts and circumstances of the case the connected application being CRAN 2 of 2026 is hereby disposed of directing that the sentences imposed on the six convicted persons/Applicants herein shall not be executed on condition that each of the convicted person/applicant herein will deposit an amount of Rs. 2500/- to the Calcutta High Court Legal Services Authority, within a period of 6 weeks from this date. In default of payment of said amount of Rs. 2500/- by any of the convict/ applicant herein, he shall undergo the sentence approved by this Court while disposing **CRR 3174 of 2018** vide judgment and order dated 02.03.2026.

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Urgent Xerox certified photocopies of this Judgment, if applied for, be given to the parties upon compliance of the requisite formalities.

(Dr. Ajoy Kumar Mukherjee, J.)