

Dr Abdul Qadir vs State Of Up And 3 Others on 3 March, 2025

Author: Mahesh Chandra Tripathi

Bench: Mahesh Chandra Tripathi

HIGH COURT OF JUDICATURE AT ALLAHABAD

?Neutral Citation No. - 2025:AHC:29619-DB

Court No. - 42

Case :- CRIMINAL MISC. WRIT PETITION No. - 2659 of 2024

Petitioner :- Dr Abdul Qadir

Respondent :- State Of Up And 3 Others

Counsel for Petitioner :- Aditi Srivastava,Kandarp Srivastava

Counsel for Respondent :- G.A.

Hon'ble Mahesh Chandra Tripathi,J.

Hon'ble Prashant Kumar,J.

1. Heard learned counsel for the petitioner, learned A.G.A. appearing for the State respondents and perused the material brought on the record.

2. By means of the present writ petition under Article 226 of the Constitution of India, petitioner is assailing the legal validity of First Information Report dated 10.1.2023 being Case Crime No.12 of 2023 under Sections 376, 506 IPC and Section 67A of Information Technology (Amendment) Act, 2008 P.S. Pakbara, Distt. Moradabad.

3. This Court vide order dated 11.03.2024 has proceeded to pass the following order:

"1. Heard learned counsel for the petitioner and learned AGA for State respondents.

2. Present writ petition has been preferred for quashing the FIR dated 10.1.2023 being Case Crime No.12 of 2023 under Sections 376, 506 IPC and Section 67A of Information Technology (Amendment) Act, 2008 P.S. Pakbara, Distt. Moradabad and for a direction to respondents not to arrest the petitioner pursuant to impugned FIR.

3. This much is contended that the petitioner is practicing doctor and the informant was pursuing Nursing Training Course at the relevant point of time. No case is made out under Section 376 IPC as both were living in relationship for quite some time and enjoyed good relation till September, 2022 and thereafter the relation between them became sour, which culminated into lodging of FIR in the year 2023. However, the matter was amicably settled between the parties vide joint affidavit dated 3.10.2023, which is appended as Annexure No.7 to the writ petition. It is submitted that since the parties have already settled the matter out of court and as such, the impugned first information report is liable to be quashed. In support of his submission, he has placed reliance on the judgements of Hon'ble Apex Court in B.S. Joshi Vs. State of Haryana reported in 2003(4) SCC 675, Nikhil Merchant Vs. Central Bureau of investigation and another J.T. 2008(9) SC 192, Gian Singh Vs. State of Punjab (2012) 10 SCC 303, Yogendra Yadav and others Vs. State of Jharkhand (2014) 9 SCC 653 and also in Narendra Singh Vs. State of Punjab (2014) 6 SCC 466.

4. It is submitted by learned counsel for the petitioners that all the disputes and differences have been settled between the parties. At this stage, it is pressed that continuation of the proceedings of the aforesaid case will be an abuse of process of law. He submits that the impugned FIR is liable to be quashed in view of the law laid down by the Apex Court in Gian Singh (supra), B.S. Joshi (supra) and Madan Mohan Abbot vs. State of Punjab, (2008) 4 SCC 582.

5. Learned AGA, on the other hand, on the basis of instructions, states that chargesheet in the present matter has already been forwarded to the competent court on 8.10.2023 and as such no interference is required in the matter.

6. Learned counsel for the petitioner submits that the impugned FIR had been lodged on 10.1.2023, the settlement between the parties took place on 3.10.2023 and chargesheet had been forwarded to the competent court on 8.10.2023. On the instructions, he states that till date the chargesheet has not reached to the competent court. The said factual aspect of the matter may be verified by the Investigating Officer. He further submits that even if chargesheet has been forwarded to the competent court, the writ petition can be heard on merits vide judgement and order dated 29.01.2024 passed by Hon'ble the Apex Court in Criminal Appeal arising from SLP (Crl.) No(s).7273/2019 (Mamta Shailesh Chandra vs. State of Uttarakhand).

7. We have considered the rival submissions and gone through the entire record.

8. In all the aforesaid cases, the Apex Court has laid down the law that criminal proceedings may be quashed even in non-compoundable cases by the High Court in exercise of its extraordinary jurisdiction to restore peace between the parties and in case the justice so demands. According to Hon'ble Supreme Court, if the offence involves private dispute between the parties of commercial nature or matrimonial dispute and it is not related to heinous offence, the proceedings may be quashed.

9. Since the dispute between the parties has been amicably and mutually settled, no fruitful purpose would be served by permitting to continue the criminal proceeding and it would simply be a waste of time, if the aforesaid case is permitted to continue till its logical conclusion.

10. As it is informed that till date the police report under Section 173 (2) of Cr.P.C. has not been accepted in the aforesaid Case Crime, we direct that the parties may appear before the Investigating Officer for verification of the settlement/compromise dated 3.10.2023 on 15.3.2024. Thereafter, the investigating officer will produce the parties to the concerned jurisdictional Magistrate for verification of the said claim. It is also directed that the Magistrate concerned will record the statement of the parties concerned as to whether the terms and conditions if set out in the settlement/compromise had been fulfilled or not and submit a report before this Court by the next date. List this matter on 29.3.2024.

11. Till the next date of listing, the petitioner shall not be arrested pursuant to impugned FIR, provided he cooperates with the investigation in question."

4. In response to the order dated 11.3.2024, a report dated 27.3.2024 is submitted by the Chief Judicial Magistrate, Moradabad whereby the compromise/settlement has been duly verified. Learned counsel for the petitioner contends that the parties reached a mutual compromise and executed a Compromise on 22.03.2024, agreeing to withdraw cases filed against each other. He further states that since the parties have already settled the matter, the instant First Information Report is liable to be quashed.

5. Confronted with the above situation, learned A.G.A. submits that he is having no objection in case the impugned first information report is quashed as the matter is already settled between the parties and the interim order was also accorded in favour of the petitioners by order dated 11.3.2024.

6. It is jointly submitted that this being an offshoot of a dispute, same has come to be amicably resolved under the compromise dated 22.03.2024, duly verified by the concerned Judicial Magistrate, pending proceedings would serve no purpose and the same are liable to be quashed in the light of the judgements of the Hon'ble the Apex Court in the case of B.S. Joshi v. State of Haryana and others, 2003(4) SCC 675 and Gian Singh v. State of Punjab, 2012(10) SCC 303. Reliance has also been placed on the judgment of Division Bench of this Court dated 16.9.2022 in

Criminal Misc. Writ Petition No.8510 of 2022 (Anuj Pandey v. State of U.P. & Ors.), wherein, it is observed that the High Court has ample power under its inherent jurisdiction to quash the first information report in which the parties have settled their disputes which are of private in nature and have no any grave impact on the society. The time of courts as well as investigating agencies are very precious which should not be wasted in any futile proceedings where the chance of conviction is bleak.

7. Hon'ble the Apex Court in the case of Gian Singh (supra) has held in para-61 that;

"the power of the High Court in quashing a criminal proceeding or FIR or complaint in exercise of its inherent jurisdiction is distinct and different from the power given to a criminal court for compounding the offences Under Section 320 of the Code. Inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accord with the guideline engrafted in such power viz; (i) to secure the ends of justice or (ii) to prevent abuse of the process of any Court. In what cases power to quash the criminal proceeding or complaint or F.I.R may be exercised where the offender and victim have settled their dispute would depend on the facts and circumstances of each case and no category can be prescribed. However, before exercise of such power, the High Court must have due regard to the nature and gravity of the crime. Heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. cannot be fittingly quashed even though the victim or victim's family and the offender have settled the dispute. Such offences are not private in nature and have serious impact on society. Similarly, any compromise between the victim and offender in relation to the offences under special statutes like Prevention of Corruption Act or the offences committed by public servants while working in that capacity etc; cannot provide for any basis for quashing criminal proceedings involving such offences. But the criminal cases having overwhelmingly and pre-dominantly civil favour stand on different footing for the purposes of quashing, particularly the offences arising from commercial, financial, mercantile, civil, partnership or such like transactions or the offences arising out of matrimony relating to dowry, etc. or the family disputes where the wrong is basically private or personal in nature and the parties have resolved their entire dispute. In this category of cases, High Court may quash criminal proceedings if in its view, because of the compromise between the offender and victim, the possibility of conviction is remote and bleak and continuation of criminal case would put accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case despite full and complete settlement and compromise with the victim. In other words, the High Court must consider whether it would be unfair or contrary to the interest of justice to continue with the criminal proceeding or continuation of the criminal proceeding would tantamount to abuse of process of law despite settlement and compromise between the victim and wrongdoer and whether to secure the ends of justice, it is appropriate that criminal case is put to an end and if the answer to the above question(s) is in affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding."

8. The genesis of the dispute between the parties was love affair. Neither it is involving any moral turpitude nor is heinous in nature. Since the dispute between the parties have already been settled amicably vide compromise dated 22.03.2024 and the same was also duly verified by the concerned Chief Judicial Magistrate, therefore, under the changed circumstances, pending proceedings would serve no purpose and the same are liable to be quashed in the light of the aforesaid judgments.

9. The writ petition is allowed and the proceedings of First Information Report dated 10.1.2023 being Case Crime No.12 of 2023 under Sections 376, 506 IPC and Section 67A of Information Technology (Amendment) Act, 2008 P.S. Pakbara, Distt. Moradabad are quashed.

Order Date :- 3.3.2025 Sachin (Prashant Kumar,J.) (Mahesh Chandra Tripathi,J.)