

Smt. Kajal Yadav And Another vs State Of U.P. And 3 Others on 4 February, 2025

Author: Mahesh Chandra Tripathi

Bench: Mahesh Chandra Tripathi

HIGH COURT OF JUDICATURE AT ALLAHABAD

?Neutral Citation No. - 2025:AHC:15515-DB

Court No. - 42

Case :- CRIMINAL MISC. WRIT PETITION No. - 1791 of 2025

Petitioner :- Smt. Kajal Yadav And Another

Respondent :- State Of U.P. And 3 Others

Counsel for Petitioner :- Bipin,Vimlesh Kumar Dubey

Counsel for Respondent :- G.A.

Hon'ble Mahesh Chandra Tripathi,J.

Hon'ble Prashant Kumar,J.

1. A joint supplementary affidavit has been filed today, which is taken on record.
2. Heard learned counsel for the petitioners and learned A.G.A. for the State respondents. Sri Madan Mohan Yadav, Advocate has put in appearance on behalf of respondent no.4.
3. The present writ petition has been preferred with prayer to quash the impugned First Information Report dated 31.12.2024 registered as Case Crime No.0091 of 2024, under Section 87 B.N.S. at P.S.

Unjh, District-Bhadohi and for a direction to the respondents not to arrest the petitioners in pursuance of impugned First Information Report.

4. Learned counsel for the petitioners submits that both the petitioners are major having their date of births 01.01.2004 and 03.02.2003 respectively, for which they have filed High School Certificate and Aadhar Card. They have already solemnized marriage and are living together as husband and wife and as such, the first information report is liable to be quashed.

5. Learned A.G.A., on the instructions, states that till date the police report has not been submitted in the present matter. He has submitted that once the victim, who is major, has herself admitted that she has already solemnized marriage with the petitioner no.1, he has no objection, if the matter is decided on merits.

6. It is jointly submitted that this being an offshoot of a matrimonial dispute, same has come to be amicably resolved and as such, the pending proceedings would serve no purpose and the same are liable to be quashed in the light of the judgements of the Hon'ble 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.

7. The Hon'ble Apex Court in the case of B.S Joshi (supra) has held that in case the matrimonial dispute has come to an end, under a compromise/settlement, between the parties, then notwithstanding anything contained under Section 320 IPC, there is no legal impediment for this court to quash the proceedings of Section 498-A I.P.C etc, which has matrimonial flavour under its inherent powers in view of the recorded settlement between the parties. 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-dominatingly 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. We have proceeded to examine the record in question and find that once the age of the victim girl is not in dispute and she herself states that she had married the first petitioner out of her own free will, then the petitioners cannot be made accused as the victim had left her home in order to live with the first petitioner. The joint supplementary affidavit of the first petitioner and the informant dated 13.10.2024 has also been filed indicating therein that they are enjoying their matrimonial life and living together as husband and wife.

9. In view of the above discussion, we are of the considered view that no offence under Section 87 B.N.S. is made out against the petitioners as petitioner no.1 has come up with the categorical stand that she had left her home with the petitioner no.1 willingly and is living with him as his wife.

10. Consequently, the writ petition is allowed and the impugned First Information Report dated 31.12.2024 registered as Case Crime No.0091 of 2024, under Section 87 B.N.S. at P.S. Unjh, District-Bhadohi as well as all consequential proceedings are hereby quashed.

Order Date :- 4.2.2025 Manish Himwan