

# **Hari Om Kumar And 3 Others vs State Of U.P. Thru. Addl. Chief Secy. ... on 15 April, 2025**

**Author: Alok Mathur**

**Bench: Alok Mathur**

HIGH COURT OF JUDICATURE AT ALLAHABAD, LUCKNOW BENCH

?Neutral Citation No. - 2025:AHC-LK0:21181

Court No. - 12

Case :- APPLICATION U/S 482 No. - 2711 of 2024

Applicant :- Hari Om Kumar And 3 Others

Opposite Party :- State Of U.P. Thru. Addl. Chief Secy. Home And Another

Counsel for Applicant :- Rakesh Kumar Agarwal,Dhirendra Kumar Mishra,Saksham Agarwal

Counsel for Opposite Party :- G.A.,Chandan Srivastava,Pranshu Agrawal

Hon'ble Alok Mathur,J.

1. Heard Sri Dhirendra Kumar Mishra, learned counsel for the applicants as well as learned AGA for the State and Sri Chandan Srivastava, learned counsel for respondent No. 2 and perused the material available on record.

2. This application under Section 482 of Cr.P.C. has been filed with the prayer to quash the order dated 16.10.2023 passed by learned Chief Judicial Magistrate, Lucknow in case No. 108436/2023 (Smt. Vidhi Pandya Vs. Kumari Ishika Sharma and others) whereby applicants have been summoned under Section 406 I.P.C. and Section-6 of Dowry Prohibition Act 1961 and also order dated 12.03.2024 passed by Special Judge PC-6, Lucknow whereby Criminal Revision bearing No. 741/2023 filed by applicants challenging summoning order dated 16.10.2023 had been rejected.

3. It has been jointly submitted by learned counsel for parties that a judicial settlement had been arrived at between the parties before this Court which has been duly recorded in the order dated 14.06.2024 and the compliance thereof has also been recorded in the subsequent order dated 15.07.2024.

4. On 14.06.2024, this Court has passed the following order:

"Heard Shri Saksham Agarwal, learned Counsel for the applicants, Shri Pranshu Agrawal, learned Counsel for the opposite party No.2 and Dr. V.K. Singh, learned Government Advocate alongwith Shri Hari Shankar Bajpai, learned A.G.A-I for the State-opposite party No.1.

In compliance of the order dated 13.06.2024, the applicants, namely-Hari Om Kumar, Anurag Sharma, Asha Sharma and maternal grandfather of the applicant No.3, namely-G.S. Dubey, grandfather of the applicant No.3, namely-Ramji Lal Sharma, uncle of the applicant No.3 and the opposite party No.2, namely-Vidhi Pandya alongwith her mother are present before this Court in person, who have been identified by their respective counsel.

After a long discussion made between the parties and their advocates, ultimately the parties arrived to a final settlement and it was agreed between the parties that the applicant no.3, Anurag Sharma and other applicants will pay Rs.45,00,000/- as one time settlement amount to the opposite party no.2, Ms. Vidhi Pandya.

It has also been assured by Shri Saksham Agarwal, learned counsel for the applicants and Shri Pranshu Agarwal, learned counsel for the opposite party no.2 that they will file a petition under Section 13-B of the Hindu Marriage Act in the first week of July, 2024. A copy of the petition will be filed jointly by both the parties and the same shall be annexed with the supplementary affidavit, which will be filed before this Court on the next date fixed. They also submit that whatever the terms and conditions arrived between the parties, shall also be mentioned in the petition under Section 13-B of the Hindu Marriage Act.

It has also been assured by applicant no.3, Shri Anurag Sharma that the amount of Rs.45,00,000/- will be paid in following manners.

A) A Bank Demand Draft of Rs.40,00,000/- will be paid in favour of the opposite party no.2, Vidhi Pandya on 15.07.2024 before this Court and the remaining amount of Rs.5,00,000/- will be paid within ten days after the decree under Section 13-B of the Hindu Marriage Act is passed by the learned family court.

B) The details of total payment will be produced before this Court by way of supplementary affidavit alongwith details of all the civil as well as criminal cases filed by Ms. Vidhi Pandya against the family members of Shri Anurag Sharma, the

applicant no.3 and the cases filed by Shri Anurag Sharma, the applicant no.3 against Ms. Vidhi Pandya, the opposite party no.2 or her family members, if any.

Both the parties as well as their respective counsel submit that proceedings of all the cases may be quashed by this Hon'ble Court exercising its inherent power under Section 482 Cr.P.C. in terms of the decree of divorce passed under Section 13-B of the Hindu Marriage Act by the concerned family court.

Put up this case on 15.07.2024 before this Court for further orders.

Interim order, granted earlier, shall continue till the next date of listing.

It is made clear that in future the parties shall not file any civil or criminal cases against each other in respect of their instant matrimonial dispute. The parties are free to live their independent lives after the decree of divorce is passed under Section 13-B of the Hindu Marriage Act.

On the next date of listing, the applicant no.1-Hari Om Kumar, the applicant no.3-Anurag Sharma, applicant no.4-Asha Sharma and Sri G.S. Dubey, maternal grand father of the applicant no.3 shall remain present before this Court in person. The opposite party no.2, Ms. Vidhi Pandya shall also appear in person before this Court on the next date fixed. "

5. On 15.07.2024, this Court has passed following order:

"Heard Shri Pradeep Kumar Mishra, holding brief of Shri Saksham Agarwal, learned Counsel for the applicants, Shri Pranshu Agrawal, learned Counsel for the opposite party No.2 and Dr. V.K. Singh, learned Government Advocate alongwith Shri Hari Shankar Bajpai, learned A.G.A-I for the State-opposite party No.1.

In compliance of the order dated 14.06.2024, the applicants, namely-Hari Om Kumar, Anurag Sharma, Asha Sharma and maternal grandfather of the applicant No.3, namely-G.S. Dubey, Sri Ramakant, uncle of the applicant No.3 and the opposite party No.2, namely-Vidhi Pandya alongwith her mother are present before this Court in person. All of them have been identified by their respective counsel.

On 14.06.2024, this Court has passed the following order:-

"Heard Shri Saksham Agarwal, learned Counsel for the applicants, Shri Pranshu Agrawal, learned Counsel for the opposite party No.2 and Dr. V.K. Singh, learned Government Advocate alongwith Shri Hari Shankar Bajpai, learned A.G.A-I for the State-opposite party No.1.

In compliance of the order dated 13.06.2024, the applicants, namely-Hari Om Kumar, Anurag Sharma, Asha Sharma and maternal grandfather of the applicant No.3, namely-G.S. Dubey, grandfather of the applicant No.3, namely-Ramji Lal

Sharma, uncle of the applicant No.3 and the opposite party No.2, namely-Vidhi Pandya alongwith her mother are present before this Court in person, who have been identified by their respective counsel.

After a long discussion made between the parties and their advocates, ultimately the parties arrived to a final settlement and it was agreed between the parties that the applicant no.3, Anurag Sharma and other applicants will pay Rs.45,00,000/- as one time settlement amount to the opposite party no.2, Ms. Vidhi Pandya.

It has also been assured by Shri Saksham Agarwal, learned counsel for the applicants and Shri Pranshu Agarwal, learned counsel for the opposite party no.2 that they will file a petition under Section 13-B of the Hindu Marriage Act in the first week of July, 2024. A copy of the petition will be filed jointly by both the parties and the same shall be annexed with the supplementary affidavit, which will be filed before this Court on the next date fixed. They also submit that whatever the terms and conditions arrived between the parties, shall also be mentioned in the petition under Section 13-B of the Hindu Marriage Act.

It has also been assured by applicant no.3, Shri Anurag Sharma that the amount of Rs.45,00,000/- will be paid in following manners.

A) A Bank Demand Draft of Rs.40,00,000/- will be paid in favour of the opposite party no.2, Vidhi Pandya on 15.07.2024 before this Court and the remaining amount of Rs.5,00,000/- will be paid within ten days after the decree under Section 13-B of the Hindu Marriage Act is passed by the learned family court.

B) The details of total payment will be produced before this Court by way of supplementary affidavit alongwith details of all the civil as well as criminal cases filed by Ms. Vidhi Pandya against the family members of Shri Anurag Sharma, the applicant no.3 and the cases filed by Shri Anurag Sharma, the applicant no.3 against Ms. Vidhi Pandya, the opposite party no.2 or her family members, if any.

Both the parties as well as their respective counsel submit that proceedings of all the cases may be quashed by this Hon'ble Court exercising its inherent power under Section 482 Cr.P.C. in terms of the decree of divorce passed under Section 13-B of the Hindu Marriage Act by the concerned family court.

Put up this case on 15.07.2024 before this Court for further orders.

Interim order, granted earlier, shall continue till the next date of listing.

It is made clear that in future the parties shall not file any civil or criminal cases against each other in respect of their instant matrimonial dispute. The parties are free to live their independent lives after the decree of divorce is passed under Section 13-B of the Hindu Marriage Act.

On the next date of listing, the applicant no.1-Hari Om Kumar, the applicant no.3-Anurag Sharma, applicant no.4-Asha Sharma and Sri G.S. Dubey, maternal grand father of the applicant no.3 shall remain present before this Court in person. The opposite party no.2, Ms. Vidhi Pandya shall also appear in person before this Court on the next date fixed. "

In compliance of the aforesaid order dated 14.06.2024, the applicants have brought four Bank Demand Drafts totaling the sum of Rs.40,00,000/-, details thereof is mentioned hereunder:-

- i) Demand Draft No.436771 dated 12.07.2024 of Rs.10,00,000/-.
- ii) Demand Draft No.897197 dated 05.07.2024 of Rs.15,00,000/-.
- iii) Demand Draft No.171844 dated 05.07.2024 of Rs.10,00,000/-.
- iv) Demand Draft No.803441 dated 04.07.2024 of Rs.5,00,000/-.

All the aforesaid Bank Demand Drafts have been received by the Opposite Party No.2, Ms. Vidhi Pandya in front of her mother and her counsel, namely, Sri Pranshu Agarwal. She has also made a receiving on the photostat copy of the aforesaid Bank Demand Drafts. The receiving is taken on record.

Learned counsel for the applicants has also filed a supplementary affidavit today in the Court, which is taken on record. In para 4 of the Supplementary Affidavit, it has been mentioned that the applicant no.3 and opposite party no.2 have filed a petition for divorce under Section 13-B of the Hindu Marriage Act, 1955 before the learned Principal Judge, Family Court, Lucknow, copy of the petition is annexed as annexure no.SA-1 to this affidavit. Further, in para 6 of the aforesaid Supplementary Affidavit, details of cases, which have been filed against each other and their family members have also been mentioned, which are being reproduced hereunder:-

- (i) Vidhi Pandya Vs. Ishika Sharma and Others, Criminal Complaint No.108436/2023, under Section 406 I.P.C. and Section 6 of Dowry Prohibition Act, pending before the learned Court of A.C.J.M. (VIII), Lucknow.
- (ii) State of U.P. vs. Anurag Sharma and Others, Crime No.214/2023, under Sections 498-A, 313, 323, 377, 504, 506, 420 I.P.C. and Section 3/4 of Dowry Prohibition Act, Police Station Gomtinagar Vistar, Commissionerate Lucknow pending before the learned Chief Judicial Magistrate, Lucknow.
- (iii) Vidhi Pandya Vs. Anurag Sharma and Others, Complaint No.4980/2023, under Section 12 of Protection of Women against Domestic Violence Act, Police Station Gomtinagar Vistar, District Lucknow pending before the learned Judicial Magistrate (II), Lucknow.

(iv) Anurag Sharma Vs. Vidhi Pandya and Others, Criminal Appeal No.93/2024, under Section 29 of Protection of Women against Domestic Violence Act, Police Station Gomtinagar Vistar, District Lucknow pending before learned Additional District Judge, Court No.21, Lucknow.

(v) Vidhi Pandya Vs. Anurag Sharma and Others, Criminal Complaint No.38680/2024 filed on 15.04.2024 pending before learned Chief Judicial Magistrate, Lucknow.

(vi) Hari Om Kumar and Others Vs. State of U.P. and Others, Application No.2711 of 2024, under Section 482 Cr.P.C. pending before Hon'ble High Court of Judicature at Allahabad, Lucknow Bench.

This Court has perused the supplementary affidavit, annexures filed therein and the averments made at para 6 of the affidavit. In the petition filed under Section 13-B of the Hindu Marriage Act, the conditions are laid down and the parties are bound to make compliance of the aforesaid conditions.

In para 5 of the aforesaid Supplementary Affidavit, it has been stated that Rs.40,00,000/- are being paid to Ms. Vidhi Pandya today whereas Rs.5,00,000/- will be paid within ten days after the decree of divorce will be passed.

All the criminal cases which are filed by both the parties against each other and their family members will be quashed by this Court after the decree of divorce is passed by the learned Principal Judge, Family Court, Lucknow on the next date fixed in this case and the parties have no objection to it.

Both the parties as well as their counsel submit that now no case will be filed against each other by any party with regard to matrimonial dispute in future and both the parties will live their independent life happily and will not interfere any further in each other's life.

The parties also submit that since both the parties have settled their dispute and a petition under Section 13-B of the Hindu Marriage Act has also been filed before the learned Principal Judge, Family Court, Lucknow on 06.07.2024, which is pending, thus, this Court may issue a positive direction to the learned Principal Judge, Family Court, Lucknow to decide the aforesaid petition filed under Section 13-B of the Hindu Marriage Act expeditiously i.e. within time fixed by this Hon'ble Court by diluting the period of motions in view of the judgment of Hon'ble Supreme Court in the case of Amardeep Singh vs. Harveen Kaur, 2017 (8) SCC 746 and Division Bench of this Court in the case of Shalini Massey vs. Neeraj Samuel Dass passed in First Appeal Defective No.392 of 2019.

Dr. V.K. Singh, learned Government Advocate alongwith Shri Hari Shankar Bajpai, learned A.G.A-I for the State-opposite party No.1 also submit that as the dispute between the parties has already been settled and a petition under Section 13-B of the Hindu Marriage Act has also been filed and is

pending before the learned Principal Judge, Family Court, Lucknow, thus, they have no objection if this Court issues a positive direction to the learned Principal Judge, Family Court, Lucknow to decide the aforesaid petition filed under Section 13-B of the Hindu Marriage Act within stipulated period in view of the two judgments referred above.

In view of the statements made by the learned counsel for the parties, the learned Principal Judge, Family Court, Lucknow is directed to decide the aforesaid petition filed under Section 13-B of the Hindu Marriage Act expeditiously i.e. within two months in view of the judgment rendered by Hon'ble the Supreme Court in the case of Amardeep Singh (Supra) and Division Bench of this Court in the case of Shalini Massey (Supra), without granting any unnecessary adjournment to either of the parties from the date of filing of the certified copy of this order, unless there is some legal impediment or unless there is any order passed by the higher court staying the proceedings of the case.

Put up this case on 23.09.2024 before this Court for further orders.

On the next date of listing, the applicant shall file a copy of the decree of divorce passed under Section 13-B of the Hindu Marriage Act by way of supplementary affidavit.

It is directed that the proceedings of cases mentioned herein below shall remain stayed till the next date of listing:-

(i) Vidhi Pandya Vs. Ishika Sharma and Others, Criminal Complaint No.108436/2023, under Section 406 I.P.C. and Section 6 of Dowry Prohibition Act, pending before the learned Court of A.C.J.M. (VIII), Lucknow.

(ii) State of U.P. vs. Anurag Sharma and Others, Crime No.214/2023, under Sections 498-A, 313, 323, 377, 504, 506, 420 I.P.C. and Section 3/4 of Dowry Prohibition Act, Police Station Gomtinagar Vistar, Commissionerate Lucknow pending before the learned Chief Judicial Magistrate, Lucknow.

(iii) Vidhi Pandya Vs. Anurag Sharma and Others, Complaint No.4980/2023, under Section 12 of Protection of Women against Domestic Violence Act, Police Station Gomtinagar Vistar, District Lucknow pending before the learned Judicial Magistrate (II), Lucknow.

(iv) Anurag Sharma Vs. Vidhi Pandya and Others, Criminal Appeal No.93/2024, under Section 29 of Protection of Women against Domestic Violence Act, Police Station Gomtinagar Vistar, District Lucknow pending before learned Additional District Judge, Court No.21, Lucknow.

(v) Vidhi Pandya Vs. Anurag Sharma and Others, Criminal Complaint No.38680/2024 filed on 15.04.2024 pending before learned Chief Judicial Magistrate, Lucknow.

Interim order, granted in this case, shall also continue till the next date of listing.

On the next date of listing, the applicant no.3, Anurag Sharma shall remain present before this Court in person alongwith Bank Demand Draft of Rs.5,00,000/- and the opposite party no.2, Vidhi Pandya shall also remain present before this Court in person for collecting the aforesaid Bank Demand Draft. Rest of the parties are exempted from personal appearance till further orders of this Court.

It is further directed that a copy of this order be placed before the learned Principal Judge, Family Court, Lucknow within ten days' from today by either of the parties. This Court hope and trust that the learned Principal Judge, Family Court, Lucknow will decide the petition filed under Section 13-B of the Hindu Marriage Act expeditiously in view of the observations made herein above. "

6. It is noticed that on behalf of the applicants, the amount of Rs. 45 lakhs has already been paid to respondent No. 2 and subsequently even the application under Section 13(b) of Hindu Marriage Act before the Principal Judge, Family Court, Lucknow has been allowed by means of order dated 30.08.2024, the same has been filed along with supplementary affidavit. Accordingly, a decree of divorce has already been granted. It has further been stated that as per the agreement between the parties, further amount of Rs. 5 lakhs which was to be paid 10 days after decree is granted has already been paid by the applicant to respondent No. 2 by a demand draft dated 02.09.2024 bearing No. 171875, drawn on Bank of Baroda.

7. Learned counsel for respondent No. 2 admits that the said amount has been duly received.

8. From the above, it is noticed that parties have duly complied with their part of the agreement.

9. Learned counsel for the parties thus submits that since both the parties have entered into compromise and settled their dispute amicably which was also reduced in writing, the aforesaid case may be quashed.

10. Learned counsel for opposite party no. 2 as well as learned AGA for the State could not dispute the aforesaid fact.

11. Hon'ble Apex Court in the case of Gian Singh Vs. State of Punjab & Another; (2012) 10 SCC 303, in paragraph No. 61 of the judgement, observed as under:-

"The position that emerges from the above discussion can be summarised thus: 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 the 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 flavour 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 the criminal proceedings if in its view, because of the compromise between the offender and the victim, the possibility of conviction is remote and bleak and continuation of the criminal case would put the 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 the affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding."

12. Hon'ble Apex Court in the case of State of M.P. vs. Laxmi Narayan; (2019) 5 SCC 688, observed as under:-

"15.1. 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 [Narinder Singh v. State of Punjab, (2014) 6 SCC 466 : (2014) 3 SCC (Cri) 54] should be read harmoniously and to be read as a whole and in the circumstances stated hereinabove;"

13. From above noted judgements, it is clear that merely mentioning the section of serious offences will not refrain the court from quashing the proceeding, if on considering the material on record, offences under that section is not made out.

14. Considering the material on record, this Court finds that no serious offence is made out against the applicants, which falls in the category of mental depravity or serious offences.

15. Considering the fact as well as on perusal of record, it appears that no heinous and serious offences of mental depravity or other offences, which may affect the society in general, are made out and both the parties have amicably settled their dispute through compromise which has been duly verified by the court below as well as in view of the law laid down by the Apex Court in Gian Singh Vs. State of Punjab & Another ; (2012) 10 SCC 303, Narinder Singh & Others vs. State of Punjab & Another (2014) 6 SCC 477, State of M.P. Vs. Laxmi Narayan, (2019) 5 SCC 688 and State of M.P. vs. Dhruv Gurjar, AIR 2017 SC 1106, order dated 16.10.2023 passed by learned Chief Judicial Magistrate, Lucknow in case No. 108436/2023 (Smt. Vidhi Pandya Vs. Kumari Ishika Sharma and others) whereby applicants have been summoned under Section 406 I.P.C. and Section-6 of Dowry Prohibition Act 1961 and also order dated 12.03.2024 passed by Special Judge PC-6, Lucknow

whereby Criminal Revision bearing No. 741/2023 filed by applicants challenging summoning order dated 16.10.2023 are hereby quashed.

16. With the aforesaid direction, the present application is allowed.

(Alok Mathur, J.) Order Date :- 15.4.2025 Ravi/