

# Kamil Khan And 2 Others vs State Of U.P. And Another on 28 March, 2025

HIGH COURT OF JUDICATURE AT ALLAHABAD

?Neutral Citation No. - 2025:AHC:44062

Court No. - 75

Case :- APPLICATION U/S 528 BNSS No. - 10305 of 2025

Applicant :- Kamil Khan And 2 Others

Opposite Party :- State of U.P. and Another

Counsel for Applicant :- Om Prakash

Counsel for Opposite Party :- G.A.

Hon'ble Arun Kumar Singh Deshwal, J.

1. List of fresh cases has been revised.
2. No one appears on behalf of the applicant/s whereas learned AGA is present.
3. It is informed by learned AGA that the Bar Association of Allahabad High Court has passed a resolution that all members of Bar will abstain from judicial work today.
4. The present application has been filed for quashing of the charge-sheet dated 11.06.2023 as well as cognizance order dated 13.10.2023 as well as entire criminal proceeding in Criminal Case No.25874 of 2023, arising out of case crime no.21 of 2023, u/s 498A, 323, 506 IPC and Section-3/4 Dowry Prohibition Act, Police Station-Navabad, District-Jhansi, pending in the court of Judicial Magistrate/Civil Judge (J.D.) F.T.C. (C.A.W.), Jhansi.

5. From perusal of record, it appears that parties have settled their dispute amicably and a compromise was also entered into between them. This court considering these facts in Application u/s 482 No.33944 of 2024 directed the court below vide order dated 02.12.2024 to verify the compromise entered into between the parties. The court below in pursuance of order dated 02.12.2024 has also verified the compromise entered into between the parties vide order dated 20.01.2025, copy of the same has been annexed at page no.53 of the affidavit.

6. As the parties have settled their dispute amicably and a compromise entered into between them had already been verified by the court below, in pursuance of the direction of this court. In such circumstances, permitting to continue the impugned proceeding will amount to travesty of justice.

7. 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."

8. 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;"

9. 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.

10. 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.

11. 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, the proceeding of the aforesaid case is hereby quashed.

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

Order Date :- 28.3.2025 S.Chaurasia