

# **Smt Vijay Laxmi And 2 Others vs State Of U.P. And 3 Others on 8 April, 2025**

**Author: Mahesh Chandra Tripathi**

**Bench: Mahesh Chandra Tripathi**

HIGH COURT OF JUDICATURE AT ALLAHABAD

?Neutral Citation No. - 2025:AHC:51053-DB

Court No. - 42

Case :- CRIMINAL MISC. WRIT PETITION No. - 8726 of 2024

Petitioner :- Smt Vijay Laxmi And 2 Others

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

Counsel for Petitioner :- Ravesh Kumar Singh

Counsel for Respondent :- G.A.

Connected with

Case :- APPLICATION U/S 482 No. - 43329 of 2024

Applicant :- Shashank Kumar

Opposite Party :- State Of U.P. And 3 Others

Counsel for Applicant :- Ravesh Kumar Singh

Counsel for Opposite Party :- G.A.,Mahendra Singh

Hon'ble Mahesh Chandra Tripathi,J.

Hon'ble Prashant Kumar,J.

1. Heard Shri R.K. Singh, learned counsel for the petitioner, Shri G.P. Singh, learned AGA for the State respondents and Shri Mahendra Singh, learned counsel for the victim.

2. The relief sought in this writ petition is for quashing the First Information Report dated 13.04.2024 registered as Case Crime No. 30 of 2024, under Section 363, 366, 120B of I.P.C., Police Station - Rijor, District - Etah. Further prayer has been made not to arrest the petitioner in the instant case.

3. The coordinate bench while entertaining this writ petition on 24.05.2024 has accorded interim relief to the petitioners. For ready reference, the order dated 24.05.2024 is quoted hereunder:-

"1. Learned counsel for the petitioners is permitted to correct the prayer clause during the course of the day.

2. Shri Ram Sanahi Yadav, filed vakalatnama on behalf of informant is taken on record.

3. Heard learned counsel for the petitioners, Shri Ram Sanahi Yadav, learned counsel for the informant and learned A.G.A. for the State-respondents.

4. This writ petition has been filed for quashing of the First Information Report dated 13.04.2024 registered as Case Crime No. 30 of 2024. Still further the petitioners have prayed that the respondents may not arrest the petitioners in Case Crime No. 30 of 2024, under Section 363, 366, 120B of I.P.C., Police Station - Rijor, District - Etah.

5. Contention of the learned counsel for the petitioners is that the petitioner nos. 1 and 2 are adults and they have married each other. Learned counsel for the petitioners has relied upon the birth certificate of petitioner no. 1, which is annexed as annexure 2 to the writ petition. The petitioner no. 3 has been roped in for no reason whatsoever.

6. Matter requires consideration.

7. Respondents no. 1, 2 and 3 are represented by learned A.G.A. Issue notice to respondent no. 4.

8. Respondents may file counter affidavit within a period of three weeks. Rejoinder affidavit, if any, may be filed within two weeks thereafter.

9. List thereafter.

10. Till the next date of listing or till the submission of charge-sheet, whichever is earlier, no coercive action shall be taken against the petitioners."

4. Later on, the investigation was completed and chargesheet was submitted before the Court of competent jurisdiction on 23.08.2024 and the Court has taken cognizance vide order dated 08.10.2024 against which, the petitioners/applicants have filed an Application U/S 482 Cr.P.C. No.43320 of 2024 (Shashank Kumar v. State of U.P. and others) seeking following reliefs:-

"It is, therefore, most respectfully prayed that this Hon'ble Court may kindly be pleased to allow this application and quash the entire proceedings and chargesheet dated 23.08.2024 as well as cognizance and summoning order dated 08.10.2024 in Sessions Case No.672 of 2024 (State v. Shashank) passed by Special Judge (Exclusive Court), POCSO Act/Additional Sessions Judge, Etah arising out of Case Crime No.30 of 2024, under Sections 363, 366, 376 IPC and Section 5/6 Act, P.S. Rijor, District Etah now pending before Special Judge (Exclusive Court), POCSO Act/Additional Sessions Judge, Etah.

"It is, further prayed that this Hon'ble Court may kindly be pleased to stay the further proceedings of Session Case No.672 of 2024 (State v. Shashank) pending before the Special Judge (Exclusive Court), POCSO Act/Additional Sessions Judge, Etah arising out of Case Crime No.30 of 2024, under Sections 363, 366, 376 IPC and Section 5/6 Act, P.S. Rijor, District Etah during pendency of the present application before Hon'ble Court."

5. Learned Single Judge while entertaining the Application U/S 482 Cr.P.C. No.43320 of 2024 on 28.02.2025 has proceeded to pass the following order:-

"1. Heard Mr. Ravesh Kumar Singh, the learned counsel for applicant, the learned A.G.A. for State opposite party-1 and Mr. Mahendra Singh, the learned counsel representing victim opposite party-5.

2. Perused the record.

3. At the very outset, the learned A.G.A. submits that notice of present application under Section 482 Cr.P.C. has been served upon first informant opposite party No.2 on 13.02.2024. However, in spite of service of notice upon first informant opposite party-2 neither any counter affidavit has been filed by first informant/opposite party No.2 nor anyone has put appearance on his behalf to oppose this application even in revised call.

4. Applicant-Shashank Kumar, has filed above-mentioned amendment application seeking amendment in the prayer clause of this application.

5. Perused the record.

6. Learned A.G.A. contends that he has no objection to the amendment prayed for by the applicant.

7. Having heard, the learned counsel for applicant, the learned A.G.A. for State, Mr. Mahendra Singh, the learned counsel representing victim opposite party-5 and upon perusal of record this Court finds that amendment prayed for by the learned counsel for applicant in support of this application under Section 482 Cr.P.C. is not only just but also proper. The same is also essential for effective adjudication of this application.

8. In view of above, this amendment application is allowed.

9. Let necessary amendment be incorporated by the learned counsel for applicant in the prayer clause of this application during course of the day.

Re: Criminal Misc. Impleadment Application No.1 of 2025

1. Heard Mr. Ravesh Kumar Singh, the learned counsel for applicant, the learned A.G.A. for State opposite party-1 and Mr. Mahendra Singh, the learned counsel representing victim opposite party-5.

2. This impleadment application has been filed by applicant-Shashank Kumar seeking impleadment of the victim as opposite party-5.

3. Learned A.G.A. contends that in view of the facts and circumstances of the case, as have now emerged on record, he does not wish to oppose the impleadment application.

4. Having heard, the learned counsel for applicant, the learned A.G.A. for State, Mr. Mahendra Singh, the learned counsel representing victim opposite party-5 and upon perusal of record this Court finds that applicant has solemnized marriage with the victim. From the aforesaid wedlock a male child was born. In view of above, prosecutrix shall now fall in the category of victim, therefore, she appears to be necessary and proper party for effective adjudication of the present application in the light of facts and circumstances as have now emerged on record .

5. Accordingly, the impleadment application is liable to be allowed.

6. It is accordingly allowed.

7. Let necessary amendment be incorporated by the learned counsel for applicant in the cause title of this application during course of the day.

8. At the very outset, the learned counsel for applicant contends that he be permitted to strike off the word "alleged" occurring in the prayer clause of this application.

9. Prayer made by the learned counsel for applicant is bona-fide. Same is not opposed by the learned A.G.A.

10. Accordingly, it is allowed.

11. Let necessary amendment in the prayer clause of this application be carried out by the learned counsel for applicant during course of the day.

#### Order on Application under Section 482 Cr.P.C.

1. As jointly prayed by the learned counsel for parties, put up again as fresh on 01.04.2025.

2. Mr. Mahendra Singh, Advocate, has put in appearance on behalf of victim-opposite party-5 by filing his Vakalatnama in Court today, which is taken on record.

3. Since, parties have solemnized marriage and from the said wedlock a male child was born, therefore, considering the above, in the interest of justice, it is provided that till the next date fixed, no coercive action shall be taken by Court below against applicant."

6. When the matter was listed on 01.04.2025, the learned Single Judge, has sent the matter to Hon'ble The Chief Justice for nomination so that both the matters be decided together. For ready reference the order dated 01.04.2025 is reproduced hereunder :-

"1. Heard Mr. Ravesh Kumar Singh, the learned counsel for applicant, the learned A.G.A. for State-opposite party-1 and Mr. Mahendra Singh, the learned counsel representing the prosecutrix Vijay Laxmi/opposite party-5.

2. Supplementary affidavit filed by the learned counsel for applicant in Court today, is taken on record.

3. On the matter being taken up, the learned A.G.A. submits that Criminal Misc. Writ Petition No. 8726 of 2024 (Smt. Vijay Laxmi and 2 Others VS. State of U.P. and 3 Others) filed by co-accused along with present applicant is already pending before this Court.

4. In view of above, it is desirable that this application be heard with aforementioned criminal misc. writ petition.

5. Accordingly, connect this application along with aforementioned criminal misc. writ petition.

6. Matter shall re-appear before appropriate Bench, if possible as fresh on 08.04.2025 along with connected matter, after obtaining an order of nomination from Hon'ble The Chief Justice.

7. Interim order granted earlier shall continue till the next date fixed."

7. In pursuance to the order dated 01.04.2025 passed by learned Single Judge, this matter was put up before Hon'ble The Chief Justice for obtaining nomination and Hon'ble The Chief Justice has assigned both these matters to this bench, hence, both these matters are being heard and decided together.

8. Learned counsel for the petitioners/applicants submits that the statement of the victim under sections 161 and 164 Cr.P.C. have already been recorded wherein she has not supported the prosecution version. For ready reference the statement of the victim recorded under section 164 Cr.P.C. are reproduced hereunder:-

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9. Learned counsel for the petitioners/applicants submits that at no point of time it was ever alleged by the victim that she had eloped with petitioner no.2. When the FIR was lodged she was 17 years and 7 month old as per High School Certificate but as per medical examination report dated 25.07.2024, which is also brought on record, she was aged about 18 years. She is living with petitioner no.2 with her own sweet will. They have solemnized their marriage and their marriage has been registered on 19.03.2025 in the office of Marriage Registration Officer, Etah. From the said wedlock a male child was also born.

10. Learned AGA as well as learned counsel appearing on behalf of the victim have not disputed the aforesaid facts.

11. Considering the rival submissions as well as documents available on record, 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 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.

12. 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."

13. Since petitioner nos.1 & 2 have solemnized their marriage with their own sweet will, they are living together and also having a child from the said wedlock, pending proceedings would serve no purpose and the same are liable to be quashed in the light of the aforesaid judgments.

14. The writ petition as well as the Application under Section 482 Cr.P.C. are allowed and the entire criminal proceedings of Sessions Case No.672 of 2024 (State v. Shashank) including chargesheet dated 23.08.2024 as well as cognizance and summoning order dated 08.10.2024 passed by Special Judge (Exclusive Court), POCSO Act/Additional Sessions Judge, Etah arising out of Case Crime No.30 of 2024, under Sections 363, 366, 376 IPC and Section 5/6 Act, P.S. Rajor, District Etah pending before Special Judge (Exclusive Court), POCSO Act/Additional Sessions Judge, Etah are hereby quashed.

Order Date :- 8.4.2025 S.P. (Prashant Kumar,J.) (M. C. Tripathi,J.)