

# **Babloo And Another vs State Of U.P. And Another on 1 April, 2025**

**Author: Rajeev Misra**

**Bench: Rajeev Misra**

HIGH COURT OF JUDICATURE AT ALLAHABAD

?Neutral Citation No. - 2025:AHC:45052

Court No. - 70

Case :- APPLICATION U/S 528 BNSS No. - 4657 of 2025

Applicant :- Babloo And Another

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

Counsel for Applicant :- Dhirendra Kumar Srivastava

Counsel for Opposite Party :- G.A.

Hon'ble Rajeev Misra,J.

Heard Mr. Dhirendra Kumar Srivastava, the learned counsel for applicants and the learned A.G.A. for Satate opposite party 1.

Perused the record.

Applicants Babloo and Hakim, who are charge sheeted accused and have been summoned by Court below, have approached this Court by means of present application under Section 528 B.N.S.S. with the following prayer:-

"It is, therefore, most respectfully prayed that this Hon'ble Court may kindly be pleased to allow this application and quash the impugned Charge-Sheet No.951 of 2019 dated 12.12.2019, impugned cognizance/summoning order dated 23.07.2020 passed by the Learned Chief Judicial Magistrate, Bulandshahr as well as entire proceedings of Case No.3127 of 2020 (State Vs. Babloo and another) arising out of Case Crime No.1594 of 2018, Under Sections 376D, 506 I.P.C., Police Station Sikandrabad, District Bulandshahr pending in the court of Chief Judicial Magistrate, Bulandshahr.

It is further prayed that this Hon'ble Court may kindly be pleased to stay further proceedings of Case No.3127 of 2020 (State Vs. Babloo and another) arising out of Case Crime No.1594 of 2018, Under Sections 376D, 506 I.P.C., Police Station Sikandrabad, District Bulandshahr pending in the court of Chief Judicial Magistrate, Bulandshahr, during the pendency of the present application before this Hon'ble Court.

And/or pass any such other and further order which this Hon'ble Court may deem fit and proper in the facts and circumstances of the case."

At the very outset, the learned A.G.A. has raised a preliminary objection by contending that present application has been filed after expiry of a period of more than 4 years and 6 months from the date of summoning order i.e. 22.7.2020 passed by the Jurisdictional Magistrate. As such, present application is hopelessly barred by delay/laches. Moreover, the delay/laches in filing the present application have not been sufficiently explained. Since the delay/laches in filing the present application have not been sufficiently explained, therefore, the present application is liable to be dismissed on the aforesaid ground. When confronted with above, the learned counsel for applicant submits that applicants had earlier approached this Court by means of Criminal Misc. Writ Petition No. 22117 of 2019 (Hakimuddin @ Hakim and another Vs. State of U.P. and 2 others), which was disposed of finally, vide order dated 30.9.2019. For ready reference, the order dated 30.9.2019 is reproduced herein below:-

"Heard Sri Ram Ker Singh learned counsel for the petitioners and the learned A.G.A.

This petition has been filed by the petitioners with a prayer to quash the FIR dated 31.12.2018 in case crime No. 1594 of 2018, under Sections 376-D, 506 IPC, P.S. Sikandrabad, District Bulandshahr.

It is submitted by learned counsel for the petitioners that petitioner No. 1 is the uncle of petitioner No. 2 (brother-in-law of victim), it is an offshoot of matrimonial dispute, the matter has been amicably settled between the parties, victim after receiving Rs. Three lacs from her husband as her dower sworn an affidavit dated 4.5.2019 to the effect that allegations levelled against the petitioners are false, no offences are made out, FIR be quashed.

Per contra, learned A.G.A has opposed the submission and submits that the FIR cannot be quashed at the stage of investigation as it discloses cognizable/heinous offences in view of the decision of the Apex Court in State of M.P. Vs. Laxmi Narayan & others reported in [AIR 2019 SC 1296].

After having heard learned counsel for the parties and perusing the impugned F.I.R, we are not inclined to quash the same.

However, we dispose of this writ petition with the direction that investigation of the aforesaid case shall go on but the petitioners shall not be arrested in the aforesaid case till the submission of police report under Section 173(2) Cr.P.C., subject to their cooperation during investigation.

With this direction, this petition is finally disposed of."

With reference to above, the learned counsel for applicants submits that there is no deliberate negligence or laches on the part of applicants in filing the present application.

Having heard the learned counsel for applicants, the learned A.G.A. for State and upon perusal of record this Court finds that the benefit of aforesaid order was available to the present applicants upto the stage of submission of charge sheet/police report in terms of Section 173 (2) Cr. P. C. submitted by the Investigating Officer, which admittedly has been submitted on 19.12.2019. Therefore, the benefit available under above order came to an end on 19.12.2019. As such, there is an explained delay of more than 4 years in filing the present application.

Apart from above, this Court further finds that the quashing of the proceedings pending against applicants before Court has been prayed on the ground that during pendency of investigation of concerned case crime number, parties amicably settled their dispute outside the Court. In view of the settlement arrived at between the parties, a compromise was entered into. Subsequently, the said compromise was reduced to writing by way of a compromise deed dated 4.5.2019. However, the said compromise is not part of the case diary, therefore, no reliance can be placed upon it. Apart from above, the Apex Court in the case of Ram Pal Vs. State of Haryana, AIR 2019 SC 1716, has held that there can be no compromise in matters of rape and sexual assault.

In view of the direction made above, this Court finds that the objections raised by the learned A.G.A. in opposition to this application are not only born out from the record but furthermore, the same could not be dislodged by the learned counsel for applicant. As such, no good ground exists to interfere in present application In view of above, this application fails and is liable to be dismissed.

It is, accordingly, dismissed.

Order Date :- 1.4.2025 HSM