

# **Manoj Kushwaha And 4 Others vs State Of U.P. And Another on 28 March, 2025**

HIGH COURT OF JUDICATURE AT ALLAHABAD

?Neutral Citation No. - 2025:AHC:44106

In Chamber

Case :- APPLICATION U/S 528 BNSS No. - 7264 of 2025

Applicant :- Manoj Kushwaha And 4 Others

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

Counsel for Applicant :- Tribhuwan Singh

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

Hon'ble Prashant Kumar,J.

1. As the advocates are abstaining from judicial work, I have perused the record.
2. It is evident from the record that there was a dispute between the applicants and opposite party no. 2. The matter was referred for verification of compromise by order dated 16.10.2024, as the applicants expressed their willingness to settle the dispute amicably.
3. From perusal of record, it transpires that the compromise has been arrived at between the parties and they have entered into a settlement agreement on 03-07-2019. The settlement/compromise deed has been duly verified by the learned trial court on 10-02-2025, which has been enclosed along with the report of the compromise and placed on the record. As per the aforesaid agreement, parties have settled all the disputes and differences amicably and they do not want to prosecute the pending cases against each other.

4. The Hon'ble Apex Court in the case of State of Madhya Pradesh Vs. Laxmi Narayan and others, reported in (2019) 5 SCC 688 has laid down principles for quashing the proceeding on the basis of settlement/compromise. Relevant paragraphs are quoted herein below:-

"15. Considering the law on the point and the other decisions of this Court on the point, referred to herein above, it is observed and held as under:

i) that 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;

ii) 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;

iii) similarly, such power is not to be exercised for the offences under the special statutes like 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;

iv) 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/delegate 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 paragraphs 29.6 and 29.7 of the decision of this Court in the case of Narinder Singh (supra) should be read harmoniously and to be read as a whole and in the circumstances stated hereinabove;

v) while exercising the power under Section 482 of the Code to quash the criminal proceedings in respect of non-compoundable offences, which are private in nature and do not have a serious impact on society, on the ground that there is a settlement/compromise between the victim and the offender, the High Court is required to consider the antecedents of the accused; the conduct of the accused, namely, whether the accused was absconding and why he was absconding, how he had managed with the complainant to enter into a compromise etc."

5. In view of the aforesaid facts, since the parties have amicably settled their dispute outside the Court and compromise between the parties has already been verified by the trial Court, the present Application U/S 528 BNSS is liable to be allowed.

6. Accordingly, the present Application U/S 528 BNSS is allowed and the proceeding of Case No. 198 of 2017 (State Vs. Manoj Kushwaha and Others), under Sections 147, 323, 504, 506, 308 IPC, P.S. Ghatampur, district Kanpur Nagar, pending in the court of learned Additional Chief Judicial Magistrate, Court No.1 Kanpur Dehat are hereby set aside.

Order Date :- 28.3.2025 pks