

Hasim And 4 Others vs State Of U.P. And 2 Others on 4 February, 2025

Author: Mahesh Chandra Tripathi

Bench: Mahesh Chandra Tripathi

HIGH COURT OF JUDICATURE AT ALLAHABAD

?Neutral Citation No. - 2025:AHC:14921-DB

Court No. - 42

Case :- CRIMINAL MISC. WRIT PETITION No. - 384 of 2025

Petitioner :- Hasim And 4 Others

Respondent :- State Of U.P. And 2 Others

Counsel for Petitioner :- Kushagra Srivastava, Syed Ali Imam

Counsel for Respondent :- G.A., Shahrukh

Hon'ble Mahesh Chandra Tripathi, J.

Hon'ble Prashant Kumar, J.

1. Heard Shri Syed Ali Imam, learned counsel for the petitioners, Shri Shahrukh, learned counsel for the informant - respondent No.3 and learned A.G.A. for the State-respondents.

2. The present writ petition has been preferred with the prayer to quash the impugned First Information Report dated 04.12.2024 registered as Case Crime No.325 of 2024 under Sections 75, 64, 89, 115(2), 352, 351(2), 351(3) B.N.S. and 3/4 Muslim Women (Protection on Marriage) Act, 2019, at Police Station Simbhawali, District Hapur and with a further prayer not to arrest the

petitioners in pursuance of the impugned F.I.R.

3. The Division Bench vide order dated 15.01.2025 has proceeded to pass the following order:

"1. Heard learned counsel for the petitioners and learned A.G.A. appearing for the State respondents. None appears for the informant.

2. This writ petition has been filed praying to quash the Case Crime No.325 of 2024 under Sections 75, 64, 89, 115 (2), 352, 351 (2), 351 (3) BNS and 3/4 Muslim Women Protection Act, P.S. Simbhawali, Distt. Hapur.

3. Learned counsel for the petitioners submits that the impugned FIR has been lodged totally on false allegations just to harass the petitioners. However, he submits that the parties have already settled the matter out of court and as such, the impugned first information report is liable to be quashed. The joint compromise deed dated 07.01.2025 is also appended along with the supplementary affidavit filed today. The said supplementary affidavit is taken on record. In support of his submission, he has placed reliance on the judgements of Hon'ble Apex Court in B.S. Joshi Vs. State of Haryana reported in 2003(4) SCC 675, Nikhil Merchant Vs. Central Bureau of investigation and another J.T. 2008(9) SC 192, Gian Singh Vs. State of Punjab (2012) 10 SCC 303, Yogendra Yadav and others Vs. State of Jharkhand (2014) 9 SCC 653 and also in Narendra Singh Vs. State of Punjab (2014) 6 SCC 466.

4. It is submitted by learned counsel for the petitioners that all the disputes and differences have been settled between the parties. At this stage, it is pressed that continuation of the proceedings of the aforesaid case will be an abuse of process of law. He submits that the impugned FIR is liable to be quashed in view of the law laid down by the Apex Court in Gian Singh (supra), B.S. Joshi (supra) and Madan Mohan Abbot vs. State of Punjab, (2008) 4 SCC 582.

5. We have considered the rival submissions and gone through the entire record.

6. In all the aforesaid cases, the Apex Court has laid down the law that criminal proceedings may be quashed even in non-compoundable cases by the High Court in exercise of its extraordinary jurisdiction to restore peace between the parties and in case the justice so demands. According to Hon'ble Supreme Court, if the offence involves private dispute between the parties of commercial nature or matrimonial dispute and it is not related to heinous offence, the proceedings may be quashed.

7. Since the dispute between the parties has been amicably and mutually settled, no fruitful purpose would be served by permitting to continue the criminal proceeding and it would simply be a waste of time, if the aforesaid case is permitted to continue till its logical conclusion.

8. As it is informed that till date the police report under Section 173 (2) of Cr.P.C. has not been submitted in the aforesaid Case Crime, we direct that the parties may appear before the Investigating Officer for verification of the joint compromise deed dated 07.01.2025 within ten days from today. Thereafter, the investigating officer will produce the parties to the concerned jurisdictional Magistrate for verification of the said claim. It is also directed that the Magistrate concerned will record the statement of the parties concerned as to whether the terms and conditions if set out in the settlement/compromise had been fulfilled or not and submit a report before this Court through Registrar (Compliance) by the next date.

9. Put up this matter as fresh on 04.02.2025.

10. Till the next date of listing, no coercive action shall be taken against the petitioners pursuant to impugned FIR, provided they cooperate with the investigation in question."

4. In response to the order dated 15.01.2025, the Additional Civil Judge (JD)/ Judicial Magistrate, Garhmukteshwar, District Hapur has submitted a report dated 28.01.2025, which has also been placed on record. Learned counsel for the petitioners in this backdrop states that since the parties have already settled the matter in light of the settlement agreement entered into on 07.01.2025 before the concerned Magistrate, the instant First Information Report is liable to be quashed.

5. Learned counsel for the informant - respondent No.3 states informant has no objection in case the impugned first information report is quashed.

6. As it is jointly submitted that as the dispute has come to be amicably resolved therefore, 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.

6. 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."

7. Since the dispute between the parties have already been settled amicably, pending proceedings would serve no purpose and the same are liable to be quashed in the light of the aforesaid judgments.

8. The writ petition is allowed and the proceedings of First Information Report dated 04.12.2024 registered as Case Crime No.325 of 2024 under Sections 75, 64, 89, 115(2), 352, 351(2), 351(3) B.N.S. and 3/4 Muslim Women (Protection on Marriage) Act, 2019, at Police Station Simbhawali, District Hapur are hereby quashed.

Order Date :- 4.2.2025 NLY