

Amit Kumar Sharma @ Bablu Sharma And 2 ... 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:44617

Court No. - 70

Case :- APPLICATION U/S 482 No. - 13202 of 2023

Applicant :- Amit Kumar Sharma @ Bablu Sharma And 2 Others

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

Counsel for Applicant :- Padmaker Pandey, Rakesh Kumar Shukla

Counsel for Opposite Party :- G.A., Prabhat Kumar Singh

with

Case :- APPLICATION U/S 482 No. - 41272 of 2024

Applicant :- Amit Kumar Sharam Alias Bablu Sharma And Another

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

Counsel for Applicant :- Padmaker Pandey

Counsel for Opposite Party :- G.A.

Hon'ble Rajeev Misra,J.

1. Heard Mr. Sunil Kumar Srivastava, Advocate holding brief of Mr. Padmaker Pandey, the learned counsel for applicants in both the applications, the learned A.G.A. for State - opposite party no.1 and Mr. Prabhat Kumar Singh, the learned counsel representing first informant opposite party-2.

2. Perused the record.

3. Applicants - Amit Kumar Sharma @ Bablu Sharma and others, who are chargesheeted accused and have been summoned by court below, have filed Application u/s 482 Cr.P.C. No.13202 of 2023 (Amit Kumar Sharma alias Bablu Sharma and others v. State of U.P. and another) for the following reliefs:-

"It is, therefore, Most Respectfully prayed that this Hon'ble Court may graciously be pleased to allow this application under Section 482 Cr.P.C. and quash the chargesheet dated 20.11.2022 and cognizance order dated 15.02.2023 as well as quash the entire criminal proceeding of Case No.17039 of 2023 (State v. Deepmala Bajpai and others) pending in the Court of Chief Metropolitan Magistrate, Kanpur Nagar arising out of Case Crime No.12 of 2021, under Sections 420, 406, 504, 120B I.P.C. at Police Station Kotwali District Kanpur Nagar.

It is also prayed that the further proceedings of entire criminal proceeding of Case No.17039 of 2023 (State v. Deepmala Bajpai and others) pending in the Court of Chief Metropolitan Magistrate, Kanpur Nagar arising out of Case Crime No.12 of 2021, under Sections 420, 406, 504, 120B I.P.C. at Police Station Kotwali District Kanpur Nagar may also be stayed during the pendency of the present application under Section 482 Cr.P.C. and/or pass such other and further order or direction which this Hon'ble Court may deem fit and proper under the circumstance of the case."

4. Applicants - Amit Kumar Sharma @ Bablu Sharma and others have filed Application u/s 482 Cr.P.C. No.41272 of 2024 (Amit Kumar Sharma alias Bablu Sharma and others v. State of U.P. and another) for the following reliefs:-

"It is, therefore, Most Respectfully prayed that this Hon'ble Court may graciously be pleased to allow this application under Section 482 Cr.P.C. and quash the order dated 17.09.2024 passed by Judicial Magistrate-1, Kanpur Nagar as well as entire Criminal proceeding of Case No.47039 of 2023 (State v. Deepmala Bajpai and others) pending in the Court of Chief Metropolitan Magistrate, Kanpur Nagar arising out of Case Crime No.12 of 2021, under Sections 420, 406, 504, 120B I.P.C. at Police Station Kotwali District Kanpur Nagar in pursuance of the compromise between the parties dated 17.07.2023 (New Application dated 27.08.2024) along with verification order dated 17.09.2024 passed by Judicial Magistrate Court No.1 Kanpur Nagar.

It is further prayed that this Hon'ble Court may graciously be pleased to also stay the entire criminal proceeding in entire criminal proceeding in Case No.47039 of 2023 (State v. Deepmala Bajpai and others) pending in the Court of Chief Metropolitan Magistrate, Kanpur Nagar arising out of Case Crime No.12 of 2021, under Sections 420, 406, 504, 120B I.P.C. at Police Station Kotwali District Kanpur Nagar in pursuance of the compromise between the parties dated 14.07.2023 (New Application dated 27.08.2024) along with verification order dated 17.09.2024 passed by Judicial Magistrate Court No.1 Kanpur Nagar and/or pass such other and further order or direction which this Hon'ble Court may deem fit and proper under the circumstances of the case."

5. Record shows that criminal prosecution of applicants commenced when an FIR dated 23.01.2021 was lodged by first informant opposite party no.2 and was registered as Case Crime No.0012 of 2021, under Sections 120B, 506, 420, 406 I.P.C., Police Station Kotwali District East Commissionerate Kanpur Nagar.

6. In the aforesaid FIR, five persons have been nominated as named accused, i.e., Deepamala Bajpai, Tarun Soni, Amit Kumar Sharma alias Bablu Sharma, mother of Amit Kumar Sharma alias Bablu Sharma and wife of Amit Kumar Sharma alias Bablu Sharma as named accused whereas certain other persons have also been alleged as accused.

7. After aforementioned FIR was lodged, Investigating Officer proceeded with the statutory investigation of concerned Case Crime Number in terms of Chapter XII Cr.P.C. On the basis of material collected by Investigating Officer during course of investigation, he came to the conclusion that complexity of all the named accused is fully established in the crime in question. Accordingly, he submitted the charge sheet/police report dated 20.11.2022 in terms of Section 173 (2) Cr.P.C. whereby all the named accused were chargesheeted under Sections 420, 406, 504, 120B I.P.C.

8. Upon submission of aforementioned charge sheet/police report cognizance was taken upon same by the jurisdictional magistrate in exercise of his jurisdiction under Section 190(1)(b) Cr.P.C. Accordingly, the chargesheeted accused were summoned by court below vide cognizance taking order/summoning order dated 15.02.2023.

9. Feeling aggrieved by the above, three of the chargesheeted accused, namely, Amit Kumar Sharma alias Bablu Sharma, Smt Rajrani Sharma and Smt. Ruchi Sharma, approached this Court by means of an Application u/s 482 Cr.P.C. No.13202 of 2023 (Amit Kumar Sharma alias Bablu Sharma and 2 others v. State of U.P. and another).

10. Aforementioned application came up for admission on 17.04.2023 and this Court passed the following order:-

"List revised.

Heard Sri Rakesh Kumar Shukla, learned counsel for the applicants, Sri B.B. Upadhyay, learned counsel for the State and perused the records.

This application under Section 482 Cr.P.C. has been filed by the applicants - Amit Kumar Sharma @ Bablu Sharma, Smt. Rajrani Sharma and Smt. Ruchi Sharma with the prayer to allow this application and quash the charge sheet dated 20.11.2022 and cognizance order dated 15.02.2023 as well as quash the entire criminal proceeding of Case No.17039 of 2023 (State Vs. Deepmala Bajpai and others) arising out of Case Crime No.12 of 2021, u/s 420, 406, 504, 120-B IPC, P.S. Kotwali, District Kanpur Nagar, pending in the Court of Chief Metropolitan, Kanpur Nagar and further to stay the further proceedings of the aforesaid case, during the pendency of present application.

From the perusal of FIR and even the evidence collected during investigation it appears that cognizable offence is made out against the applicant no.1 Amit Kumar Sharma @ Bablu Sharma. The petition in so far as applicant no.1 is concerned, there is no ground for interference. The petition with regards to applicant no.1 Amit Kumar Sharma @ Bablu Sharma stands dismissed at this stage.

Learned counsel for the applicants states that the purpose of the applicants would suffice if an order is passed directing the trial court to decide the bail application of the applicant no.1 Amit Kumar Sharma @ Bablu Sharma, as expeditiously as possible.

Looking to the prayer of learned counsel for the applicants with regards to applicant no.1, it is directed that if the accused-applicant no.1 Amit Kumar Sharma @ Bablu Sharma surrenders before the trial court and applies for bail within two weeks from today, the same shall be considered and decided expeditiously in accordance with law.

The present application thus survives for the applicant nos.2/Smt. Rajrani and 3/Smt. Ruchi Sharma only.

Learned counsel for the applicants argued that the applicants have been falsely implicated in the present case. It is argued that in so far as the applicant no.2 and 3 are concerned they are the mother and wife of applicant no.1 Amit Kumar Sharma @ Bablu Sharma. In the First Information Report, there is no allegation whatsoever against them. The only allegation against them is that when the first informant went to the house of Amit Kumar Sharma @ Bablu Sharma the applicant no.2 and 3 who are mother and wife of Amit Kumar Sharma @ Bablu Sharma stated that he is in jail in connection with some case under Section 307 IPC. It is argued that there is no allegation against the said applicants.

Issue notice to the opposite party no.2 returnable within six weeks.

Opposite party no.2 may file counter affidavit within four weeks. Learned A.G.A. may also file counter affidavit within the same period. Rejoinder affidavit may thereafter be filed within two weeks.

Let the matter be listed on 14.08.2023.

Till the next date of listing, no coercive actions shall be taken against the applicants Smt. Rajrani Sharma and Smt. Ruchi Sharma of the aforesaid case."

11. During pendency of above mentioned application, parties amicably settled their dispute outside the Court. On the basis of settlement arrived at between the parties, a compromise was entered into. Thereafter, the terms of the compromise were reduced in writing and filed before court below.

12. In view of above, accused Amit Kumar Sharma alias Bablu Sharma and another approached this Court by means of an Application u/s 482 Cr.P.C. No.25697 of 2024 (Amit Kumar Sharma alias Bablu Sharma and another v. State of U.P. and another). Aforementioned application was disposed of finally vide order dated 07.08.2024 passed by his lordship Hon'ble Arun Kumar Singh Deshwal. For ready reference the order dated 07.08.2024 which is on record at page 26 of the paper book is extracted hereinbelow:-

"1. Heard Sri Padmaker Pandey, learned counsel for the applicants and Sri Ghanshyam Kumar, learned A.G.A. for the State.

2. The instant application has been filed seeking quashing of the entire criminal proceeding of the Case No. 47039 of 2023 (State vs. Deepmala Bajpai and others), arising out of Case Crime No. 12 of 2021 under Sections 420, 406, 504, 120-B I.P.C., P.S. Kotwali, District Kanpur Nagar in pursuance of the compromise between the parties dated 14.7.2023.

3. At the very outset, learned counsel for the applicants submits that the applicants and opposite party No.2 have entered into settlement and pursuant to that settlement the entire outstanding amount against the applicants has been paid to the first informant. A copy of the same has been annexed at page No. 65 of the paper book. It is further submitted that the court below be directed to verify the aforesaid compromise. Learned counsel for the applicant has also produced original deed of compromise dated 14.7.2023.

4. In view of the above, the applicants are directed to file the original deed of the present compromise or a fresh compromise between the parties before the court below within a period of 15 days.

5. In case such a compromise is filed by the applicants, the court below will verify the same after summoning the parties and after verification of the same, it will permit the parties to obtain certified copy of the verified compromise. The aforesaid exercise of

verification of the compromise shall be completed by the court below within a period of two months.

6. For a period of two months, no coercive action shall be taken against the applicants in the aforesaid case.

7. It is further provided that the parties are at liberty to file a fresh application u/s 482 Cr.P.C. for quashing of the impugned proceeding on the basis of the verified compromise.

8. With the aforesaid direction, the application is disposed of"

13. In compliance of above order dated 07.08.2024, parties appeared before court below and filed an application dated 27.08.2024 containing the terms of the compromise so entered into by the parties and also the prayer to terminate the proceedings of above-mentioned criminal case on the basis of compromise entered into by the parties.

14. Court below in compliance of above order dated 07.08.2024 verified the compromise so entered into by the parties vide compromise verification order dated 07.09.2024. The same is on record at page no.77 of the paper book.

15. On the above premise, the learned counsel for applicants submits that the dispute between parties is a purely private dispute. The criminality alleged to have been committed by accused applicants is neither a crime against State nor against society. Furthermore, in view of the compromise entered into by the parties, the chances of conviction of accused applicants are not only remote but also. As such, no useful purpose shall be served by prolonging the criminal prosecution of applicants. On the above conspectus, the learned counsel for applicants submits that the entire proceedings pending against applicants before court below are liable to be quashed and present application is also liable to be allowed.

16. Per contra, the learned A.G.A. for State opposite party-1 has vehemently opposed the present application. He submits that applicants were chargesheeted under Section 120B I.P.C. which is a non compoundable offence. Referring to the provisions contained in Section 320 Cr.P.C., the learned AGA submits that as one of the offences complained of against accused applicants non compoundable, therefore court below has rightly rejected the compromise entered into by the parties vide order dated 17.09.2024. As such, no interference is warranted by this Court in the present application. However, he could not be disclosed the factual submissions urged by learned counsel for the applicants with reference to the record at this stage.

17. On the other hand, Mr. Prabhat Kumar Singh, the learned counsel representing first informant opposite party-2, does not oppose the present application. He submits that he has received instructions not to oppose the present application. Accordingly to the learned counsel representing first informant opposite party-2, it is now an admitted fact that the parties have entered into a compromise who has been enacted upon and verified by court below. He, therefore, contends that

he cannot have any grievance in case the present application is decided by this Court taking into consideration aforementioned facts.

18. Having heard the learned counsel for applicants, the learned A.G.A. for State, and upon perusal of record, this Court finds that the crux of the matter is that the parties have entered into a compromise which has been enacted upon and verified by the court below.

19. Be that as it may, this Court is not unmindful of the following judgements of Apex Court:

i. B.S. Joshi and others Vs. State of Haryana and another (2003) 4 SCC 675 ii. Madan Mohan Abbot Vs. State of Punjab, (2008) 4 SCC 582 iii. Nikhil Merchant Vs. Central Bureau of Investigation[2008]9 SCC 677 iv. Manoj Sharma Vs. State and others (2008) 16 SCC 1 v. Shiji @ Pappu and Others VS. Radhika and Another, (2011) 10 SCC 705 vi. Gian Singh Vs. State of Punjab (2012) 10 SCC 303 vii. K. Srinivas Rao Vs. D.A Deepa, (2013) 5 SCC 226 viii. Dimpey Gujral and others Vs. Union Territory through Administrator, U.T. Chandigarh and others, (2013) 11 SCC 497 ix. Narindra Singh and others Vs. State of Punjab (2014) 6 SCC 466 x. Yogendra Yadav and Ors. Vs. State of Jharkhand and another (2014) 9 SCC 653 xi. Shlok Bhardwaj Vs. Runika Bhardwaj, (2015) 2 SCC 721 xii. C.B.I. Vs. Maninder Singh (2016) 1 SCC 389 xiii. C.B.I. Vs. Sadhu Ram Singla and Others, (2017) 5 SCC 350 xiv. Parbatbhai Aahir @ Parbatbhai Bhimsinhbhai Karmur and Others Vs. State of Gujarat and another, (2017) 9 SCC 641 xv. Anita Maria Dias and Ors. Vs. State of Maharashtra and Others, (2018) 3 SCC 290 xvi. Social Action Forum For Manav Adhikar and Another Vs. Union of India and others, (2018) 10 SCC, 443 (Constitution Bench) xvii. State of M.P. VS. Dhruv Gurjar and Another, (2019) 5 SCC 570 xviii. State of M.P. V/s Laxmi Narayan & Ors., (2019) 5 SCC 688 xix. Rampal Vs. State of Haryana, AIR online 2019 SC 1716 xx. Arun Singh and Others VS. State of U.P. and Another (2020) 3 SCC 736 xxi. (Ramgopal and Another Vs. The State of M.P.), 2021 SCC OnLine SC 834 xxii. Daxaben Vs. State of Gujarat, 2022 SCC Online 936.

xxiii. State of Kerala VS. Hafsal Rahman N.R., Special Leave Petition (Criminal) Diary Nos. 24362 of 2021.

xiv. Shatrughna Atmaram Patil and Another Vs. Vinod Dodhu Chaudhary and Another, (2024) 4 SCC 458.

xv. Suraj Singh Gujar and Another Vs. State of Madhya Pradesh and Others, 2024 SCC OnLine SC 2414.

xvi. K. Bharti Devi and Another Vs. State of Telangana and Another, (2024) 10 SCC 384.

xvii. Ramji Lal Bairwa and Another Vs. State of Rajasthan and Others, 2024 SCC OnLine SC 3193.

xviii. H.N. Pandakumar Vs. State of Karnataka, 2025 SCC OnLine SC 38.

wherein the Apex Court has categorically held that compromise can be made between the parties even in respect of certain cognizable and non compoundable offences. However, Apex Court in State of M.P. Vs. Laxmi Narayan (Supra) held that no compromise can be made in respect of offences against society as they are not private in nature. Similarly in Ram Pal Vs. State of Haryana (Supra) it has been held that no compromise can be made in cases relating to rape and sexual assault. Recently, Apex Court in Daxaben (supra) has held that no compromise can be made in matter under Section 306 IPC. In state of Kerala Vs. Hafsal Rahman (Supra), Court has held that no compromise can be entertained in matters under the POCSO Act. Reference may also be made to the decision given by this Court in Shaifullah and others Vs. State of U.P. And another [2013 (83) ACC 278] in which the law expounded by the Apex court in some of the aforesaid cases has been explained in detail.

20. Recently Apex court in Parbatbhai Aahir @ Parbatbhai Bhimsinhbhai Karmur (Supra) has laid down the following guidelines with regard to quashing of criminal proceedings as well compromise in criminal proceedings in paragraphs 16 to 16.10 of the report, which read as under:

"16. The broad principles which emerge from the precedents on the subject, may be summarized in the following propositions 16.1. Section 482 preserves the inherent powers of the High Court to prevent an abuse of the process of any court or to secure the ends of justice. The provision does not confer new powers. It only recognises and preserves powers which inhere in the High Court;

16.2. The invocation of the jurisdiction of the High Court to quash a First Information Report or a criminal proceeding on the ground that a settlement has been arrived at between the offender and the victim is not the same as the invocation of jurisdiction for the purpose of compounding an offence. While compounding an offence, the power of the court is governed by the provisions of Section 320 of the Code of Criminal Procedure, 1973. The power to quash under Section 482 is attracted even if the offence is non-compoundable.

16.3. In forming an opinion whether a criminal proceeding or complaint should be quashed in exercise of its jurisdiction under Section 482, the High Court must evaluate whether the ends of justice would justify the exercise of the inherent power;

16.4. While the inherent power of the High Court has a wide ambit and plenitude it has to be exercised; (i) to secure the ends of justice or (ii) to prevent an abuse of the process of any court;

16.5. The decision as to whether a complaint or First Information Report should be quashed on the ground that the offender and victim have settled the dispute, revolves ultimately on the facts and circumstances of each case and no exhaustive elaboration

of principles can be formulated;

16.6. In the exercise of the power under Section 482 and while dealing with a plea that the dispute has been settled, the High Court must have due regard to the nature and gravity of the offence. Heinous and serious offences involving mental depravity or offences such as murder, rape and dacoity cannot appropriately be quashed though the victim or the family of the victim have settled the dispute. Such offences are, truly speaking, not private in nature but have a serious impact upon society. The decision to continue with the trial in such cases is founded on the overriding element of public interest in punishing persons for serious offences;

16.7. As distinguished from serious offences, there may be criminal cases which have an overwhelming or predominant element of a civil dispute. They stand on a distinct footing in so far as the exercise of the inherent power to quash is concerned;

16.8. Criminal cases involving offences which arise from commercial, financial, mercantile, partnership or similar transactions with an essentially civil flavour may in appropriate situations fall for quashing where parties have settled the dispute;

16.9. In such a case, the High Court may quash the criminal proceeding if in view of the compromise between the disputants, the possibility of a conviction is remote and the continuation of a criminal proceeding would cause oppression and prejudice; and
16.10. There is yet an exception to the principle set out in propositions 16.8 and 16.9 above. Economic offences involving the financial and economic well-being of the state have implications which lie beyond the domain of a mere dispute between private disputants. The High Court would be justified in declining to quash where the offender is involved in an activity akin to a financial or economic fraud or misdemeanour. The consequences of the act complained of upon the financial or economic system will weigh in the balance."

21. In Ramgopal and another (supra), Court has again reiterated the guidelines regarding quashing of criminal proceedings in view of compromise. Following has been observed in paragraphs 18-19 of the report:-

"18. It is now a well crystalized axiom that plenary jurisdiction of this Court to impart complete justice under Article 142 cannot ipso facto be limited or restricted by ordinary statutory provisions. It is also noteworthy that even in the absence of an express provision akin to Section 482 Cr.P.C. conferring powers on the Supreme Court to abrogate and set aside criminal proceedings, the jurisdiction exercisable under Article 142 of the Constitution embraces this Court with scopious powers to quash criminal proceedings also, so as to secure complete justice. In doing so, due regard must be given to the overarching objective of sentencing in the criminal justice system, which is grounded on the sub-lime philosophy of maintenance of peace of the collective and that the rationale of placing an individual behind bars is aimed at his

reformation.

19. We thus sum-up and hold that as opposed to Section 320 Cr.P.C. where the Court is squarely guided by the compromise between the parties in respect of offences 'compoundable' within the statutory framework, the extra-ordinary power enjoined upon a High Court under Section 482 Cr.P.C. or vested in this Court under Article 142 of the Constitution, can be invoked beyond the metes and bounds of Section 320 Cr.P.C. Nonetheless, we reiterate that such powers of wide amplitude ought to be exercised carefully in the context of quashing criminal proceedings, bearing in mind: (i) Nature and effect of the offence on the conscious of the society; (ii) Seriousness of the injury, if any; (iii) Voluntary nature of compromise between accused and the victim; & (iv) Conduct of the accused persons, prior to and after the occurrence of the purported offence and/or other relevant considerations."

22. In State of M.P. Vs. Laxmi Narayan (Supra), the Apex Court held that mere mention of Section 307 IPC cannot be sole basis for not quashing the proceedings. Court has to examine whether the prosecution has collected sufficient evidence for framing of charge under Section 307 IPC. The Court is further required to examine the weapons used and nature of injury and whether injury has been inflicted on vital/delicate parts of the body, the previous antecedents of accused and whether they are absconding and how the compromise was got entered into by the parties are relevant factors, which must be considered. The above observations can be clearly delineated from the recital occurring in paragraphs 11 to 18 of the aforementioned report.

23. Having heard the learned counsel for applicant, the learned A.G.A. for State-opposite party-1, the learned counsel representing first informant-opposite party-2, upon perusal of record and in view of observations made by the Apex Court as noted herein above, this Court finds that there does not exist any legal impediment in accepting the compromise entered into by the parties. In view of the compromise entered into by the parties, the chances of conviction of accused-applicants is remote and bleak. As such, no useful purpose shall be served in prolonging the criminal proceedings pending against accused-applicants. The trial would only entail loss of judicial time in a futile pursuit particularly when torrents of litigation drown the Courts with an unimaginable flood of dockets.

24. In view of the discussion made above, the present application succeeds and is liable to be allowed.

25. It is, accordingly, allowed.

26. The entire proceedings of chargesheet dated 20.11.2022 and cognizance order dated 15.02.2023 as well as quash the entire criminal proceeding of Case No.17039 of 2023 (State v. Deepmala Bajpai and others) pending in the Court of Chief Metropolitan Magistrate, Kanpur Nagar arising out of Case Crime No.12 of 2021, under Sections 420, 406, 504, 120B I.P.C. at Police Station Kotwali District Kanpur Nagar and Case No.17039 of 2023 (State v. Deepmala Bajpai and others) pending in the Court of Chief Metropolitan Magistrate, Kanpur Nagar arising out of Case Crime No.12 of 2021,

under Sections 420, 406, 504, 120B I.P.C. at Police Station Kotwali District Kanpur Nagar are, hereby, quashed.

27. The parties shall bear their own costs.

Order Date :- 1.4.2025 A.N. Mishra