

Aazam Khan And Others vs State Of U.P. Thru. Prin. Secy. Home, ... on 31 January, 2025

Author: Saurabh Lavania

Bench: Saurabh Lavania

HIGH COURT OF JUDICATURE AT ALLAHABAD, LUCKNOW BENCH

?Neutral Citation No. - 2025:AHC-LK0:6993

Court No. - 12

Case :- APPLICATION U/S 482 No. - 1959 of 2023

Applicant :- Aazam Khan And Others

Opposite Party :- State Of U.P. Thru. Prin. Secy. Home, Lko. And Another

Counsel for Applicant :- Mohd. Islam Khan,Irshad Ali

Counsel for Opposite Party :- G.A.,Farooq Ayoob,Mohammad Imran

along with

Case :- APPLICATION U/S 482 No. - 1226 of 2020

Applicant :- Dr. Achchhan Khan

Opposite Party :- State Of U.P. Through Prin. Secy. Home Lko. And Anr.

Counsel for Applicant :- Mohd. Zafar Khan,Amitabh Chaturvedi,Mohd. Islam Khan,Shahid Sal

Counsel for Opposite Party :- G.A.,Farooq Ayoob

Hon'ble Saurabh Lavania,J.

1. Heard learned counsel for the applicants, learned counsel for opposite party No.2 as well as learned AGA for the State of U.P. and gone through the record.

2. The application U/S 482 No. 1959 of 2023 has been filed with the following prayer:-

"To quash the entire proceedings of CrI. Case No.-55800/2017 "State V/s Dr. Achchan Khan and others" U/s 147, 498a, 323, 504, 506 IPC and 3/4 of D.P. Act pending in the court of A.C.J.M. (A.P.) CBI, Lucknow relating to the Charge Sheet No. 01 of 2017 dated 14/11/2017, P.S. Wazirganj. District Lucknow and to stay the further proceedings thereof against the petitioners."

3. The application U/S 482 No. 1959 of 2023 has been filed with the following prayer:-

"To set aside the impugned charge sheet Now 01/2017 dated 09.08.2017 submitted by the Investigating Officer in Case Crime No. 0097/2017 U/S 147, 323, 406, 504, 506, 498A I.P.C and 3/4 D.P. Act, P.S. Wajeerganj, District- Lucknow and also to set aside the proceedings of case No. 0097/2017, U/s 147, 323, 406, 504, 506, 498A I.P.C and 3/4 D.P. Act, P.S.- Wajeerganj District Lucknow, pending in the Court ACJM CBI [AP] Lucknow as well as summoning Order dated 14.11.2017."

4. From a perusal of record, it appears that on account of matrimonial dispute/ discord, an FIR was lodged by opposite party No.2/ victim making allegations therein to the effect that she was subjected to cruelty on account of non-fulfillment of demand of dowry by her husband namely Dr. Achchhan Khan and other family members namely Azam Khan (brother-in-law/ Devar), Suraiyya Begum (Sister-in-law/ Nanad), Rubi Khan (Sister-in-law/ Nanad), Sufiya Khan (Sister-in-law/ Nanad), Zeba Khan (Sister-in-law/ Nanad), Iftedar Khan (brother-in-law/ Nandoi), Smt. Sanjida Begum (Mother-in-law/ Saas). The Investigating officer after investigation submitted the Charge Sheet No.1 dated 20.02.2017 under Sections 147, 323, 406, 498-A, 504, 506 I.P.C. and 3/4 D.P. Act.

5. It is stated that after taking note of the nature of dispute between the parties, the matter was referred to Mediation and Conciliation Centre of this Court vide order dated 27.02.2023 passed in Application U/S 482 No.1959 of 2023 by this Court. The order dated 27.02.2023 reads as under:-

"Heard learned counsel for the applicants and learned A.G.A for the State.

The applicant in the present application under Section 482 Cr. P.C. is seeking quashing of the entire proceedings of Criminal Case No. 55800 of 2017, State Vs. Dr. Achchan Khan and others arising out of case Crime no.97 of 2017 under Sections 147,498A, 323, 504, 506, 406 I.P.C. and Section 3/4 D.P. Act, Police Station Wazirganj, District Lucknow pending in the court of Additional Chief Judicial Magistrate (A.P.) CBI, Lucknow and impugned chargesheet No. 01 of 2017 dated 14.11.2017.

Submission of learned counsel for the applicants is that the applicants happen to be Devar, mother in law , sister in laws (Nanads) and brother in law (Bahnoi) of opposite party no.2 and the matter relates to matrimonial dispute. The applicants have all the intentions to settle the same amicably. In order to show his bona fide the applicants are prepared to deposit Rs. 25,000/-. Applicant's counsel strenuously urged that this case may be referred to the Mediation Center of this Court so that the couple may have a chance to settle their dispute on their own terms through mediation.

The Court is also satisfied on the basis of the record and the submissions made before it that the nature of litigation is such that there is a chance to resolve the matter through process of mediation and an attempt ought to be made to explore that possibility.

Accordingly, the matter is being referred to the Mediation and Conciliation Centre, High Court, Lucknow Bench, Lucknow. The applicant will deposit Rs.25,000/- within three weeks from today with Mediation Centre. In case the amount is deposited, the Mediation Centre will issue notices to both the parties. Out of the same, Rs. 20,000/- shall be handed over to the opposite party no.2 on her first appearance with regard to her maintenance and minimum expenses. It is further provided that Rs. 5000/- will remain deposited with the Mediation and Conciliation Centre, High Court Lucknow Bench, Lucknow.

The mediator is allowed two months' time to find out possible solution of the dispute between the parties and send his report to the court regarding the outcome of mediation.

Connect and list this case alongwith Criminal Misc. Case No. 1226 of 2020 u/s 482 Cr.P.C. before appropriate Bench alongwith report of the mediator on 25-04-2023.

Till the next date of listing, the entire proceedings of Criminal Case No. 55800 of 2017, State Vs. Dr. Achchan Khan and others arising out of case Crime no. 97 of 2017 under Sections 147,498A, 323, 504, 506, 406 I.P.C. and Section 3/4 D.P. Act, Police Station Wazirganj, District Lucknow pending in the court of Additional Chief Judicial Magistrate (A.P.) CBI, Lucknow and impugned chargesheet No. 01 of 2017 dated 14.11.2017 shall remain stayed in respect of the applicants.

It is made clear that in case of default in depositing the amount as ordered above or on non-participation of the applicant in the mediation proceedings, the interim stay order shall stand automatically vacated."

6. After passing the order dated 27.02.2023, this Court passed the following order dated 20.01.2025:-

"In view of the submissions advanced by the learned counsel for the parties, let this matter be again listed before the Mediation and Conciliation Centre of this Court on 24.01.2025.

Let the matter thereafter be listed before this Court on 31.01.2025 alongwith mediation report. It is for the reason that the learned counsel for the parties say that on one sitting the matter would be settled. "

7. Before the Mediation and Conciliation Centre, the parties have settled their dispute, which is apparent from Annexure No.D, a copy of the Settlement Agreement dated 30.01.2025 entered between the parties before Mediation and Conciliation Centre of this Court at Lucknow. The Settlement Agreement is extracted hereinunder:-

ANNEXURE-D MEDIATION & CONCILIATION CENTRE ALLAHABAD HIGH COURT LUCKNOW SETTLEMENT AGREEMENT This SETTLEMENT AGREEMENT entered into on 30.01.2025 between (I) Aazam Khan S/O Late Ali Raza Khan R/O House No.1833, Sadullaganj, P.S. Jalalabad District Shahjahanpur [Applicant No.1].

(ii) Dr. Achchhan Khan S/O Late Ali Raza Khan R/O House No. 1833, Sadullaganj, PS. Jalalabad District Shahjahanpur [Brother of Applicant No.1] (herein after referred to as collectively FIRST PARTY) and Smt. Hina Kausar D/O Shri Anees Khan R/O 164/122/9kha, Kaithe Wali Gali, Haider Mirza Road, P.S. Wazirganj Lucknow [Opposite Party No.2]/ (SECOND PARTY) WHERE AS

1. Disputes and differences had arisen between the Parties here to and APPLICATION U 482 No.1959 of 2023 (Aazam Khan & Others Vs State of U.P. & Another) was filed in the High Court of Judicature at Allahabad, Lucknow.

2 The matter was referred to Mediation/Conciliation vide an order dated 20.01.2025 passed by Hon'ble Mr. Justice Saurabh Lavania.

3. The parties agreed that Mr. Yadukul Shiromani Lohit, Advocate and Ms. Sumayya Kidwai, Advocate would act as their Mediators/Conciliators.

4. Two meetings were held during the process of Conciliation/Mediation and the parties have with the assistance of the Mediators/Conciliators voluntarily arrived at an amicable solution resolving the above mentioned disputes and differences.

5. The parties hereto confirm and declare that they have voluntarily and of their own free will arrived at this Settlement Agreement in the presence of the Mediators/Conciliators.

6. The following settlement has been arrived at between the Parties hereto:

A) That the First Party No.(ii) and the Second Party solemnized their marriage on 02.02.2013 and due to marital discord they were living separately since 02.12.2016 and they have already dissolved their marriage with mutual consent vide a compromise/divorce deed dated 31.12.2017.

B) That the parties have agreed that they shall have no claim against each other with regard to the Criminal Case No.55800 of 2017 (State Vs. Dr. Achchan Khand and Others) arising out of Case Crime No.97 of 2017 U/Ss 147, 498A, 323, 504, 506, 406 I.P.C. and Section 3/4 D. P. Act, P. S.-Wazirganj, District-Lucknow pending before Additional Chief Judicial Magistrate (A.P.) CBI, Lucknow.

C) That out of the wedlock of the First Party No.(ii) and the Second Party, two babies were born and now they are namely Ahil Khan (son) aged about 10 years and Aahirah (daughter) aged about 8 years and the parties have agreed that they shall remain in the custody of Second Party and the First Party No.(ii) has agreed that he shall not claim the custody of the children in future. After becoming adult, their son and daughter will be free to take a decision regarding their future prospects.

D) That the Second Party has agreed that she will have no objection if the APPLICATION U/s 482 No.1959 of 2023 (Aazam Khan & Others Vs State of U.P. & Another) Connected with APPLICATION U/s 482 No.1226 of 2020 (Dr. Achchhan Khan Vs State of U.P. & Another) emanating to the proceedings of Criminal Case No.55800 of 2017 (State Vs. Dr. Achchhan Khan and Others) arising out of Case Crime No.97 of 2017 U/Ss 147, 498A, 323, 504, 506, 406 I.P.C. and Section 3/4 D. P. Act, P. S.-Wazirganj. District-Lucknow pending before Additional Chief Judicial Magistrate (A.P.) CBI. Lucknow are disposed by the Hon'ble Court in terms of this settlement agreement.

E) The parties have agreed that apart from mentioned case, if any other criminal case(s) is pending between the parties or their family members with regard to the present dispute, both the parties shall get the same disposed off in terms of this Settlement Agreement.

F) That it is also agreed between the parties that henceforth no case will be instituted by them against each other or any of their respective family members in future in the form of criminal or civil proceedings in respect of present dispute.

G) That both the parties shall be bound by the terms and conditions of this Settlement Agreement in strict sense. In case of any default, the party committing default shall be liable for playing fraud with the Court, hence for contempt of the Court.

7. By signing this agreement the parties hereto state that they have no further claima or demands against each other with respect to the matter involved in APPLICATION Us 482 No.1959 of 2023

(Aazam Khan & Others Vs State of UP. & Another) and all disputes and difference in this regard have been amicably settled by the parties hereto through the process of Conciliation/Mediation.

In WITNESS WHEREOF the First Party and Second Party have signed this agreement with free will without any pressure, force and coercion with the help of the mediators.

LUCKNOW:

SKP/-

Date :30.01.2025

PARTIES SIGNATURE

(Aazam Khan) (Dr. Achchhan Khan) (Hina Kausar)

First Party No.(i) First Party No.(ii) (Second Party)

COUNSELS' SIGNATURE

(Mohd. Islam Khan) (Farooq Ayooob)

(Advocate for First Party) (Advocate for Second Party)

MEDIATORS' SIGNATURE

(Sumayya Kidwai) (Yadukul Shiromani Lohit)

(Advocate/Mediator) (Advocate/Mediator)."

8. It is further stated that in view of the aforesaid, the pending proceedings in issue be set aside.

9. Considering the aforesaid as also the submissions made by learned Counsel for the parties as also the observations made by Apex Court in the case of State of Karnataka Vs. L. Muniswamy and Others, 1977 (2) SCC 699; State of Haryana Vs. Bhajan Lal and Others, 1992 Supp (1) SCC 335; Prashant Bharti Vs. State (NCT of Delhi), (2013) 9 SCC 293; Rajiv Thapar and Ors. Vs. Madan Lal Kapoor, (2013) 3 SCC 330; Ahmad Ali Quraishi and Ors. Vs. State of Uttar Pradesh and Ors. (2020) 13 SCC 435, according to which inherent power under Section 482 Cr.P.C. (akin to Section 528 BNSS, 2023) could be exercised to prevent abuse of process of any Court or otherwise to secure ends of justice, as also the observations made by Apex Court in the case of Ramgopal and others Vs. State of Madhya Pradesh, (2022) 14 SCC 531, Gian Singh Vs. State of Punjab [2012 10 SCC 303], Mohd. Ibrahim Vs. State of U.P., 2022 SCC Online ALL 106, Gold Quest International Ltd. Vs. State of Tamilnadu, 2014 (15) SCC 235, B.S. Joshi Vs. State of Haryana, 2003 (4) SCC 675, Jitendra Raghuvanshi Vs.

Babita Raghuvanshi, 2013(4) SCC 58, Madhavarao Jiwajirao Scindia Vs. Sambhajirao Chandrojirao Angre, 1988 1 SCC 692, Nikhil Merchant Vs. C.B.I. and another, 2008(9) SCC 677, Manoj Sharma Vs. State and others, 2008(16) SCC 1, State of M.P. Vs. Laxmi Narayan and others, 2019(5) SCC 688, Narindra Singh and others Vs. State of Punjab and another, (2014) 6 SCC 466, Manoj Kumar and others Vs. State of U.P and others (2008) 8 SCC 781, Union Carbide Corporation and others Vs. Union of India and others (1991) 4 SCC 584, Manohar Lal Sharma Vs. Principal Secretary and others (2014) 2 SCC 532 and Supreme Court Bar Association Vs. Union of India (1998) 4 SCC 409, according to which, in given facts, based upon the settlements between the parties the criminal proceedings can be quashed, as also the nature of dispute/crime, this Court is of the view that the present application is liable to be allowed as chances of ultimate conviction are extremely bleak and hence no useful purpose would be served by allowing the criminal proceedings to continue.

10. Accordingly, application(s) for the prayer(s) sought are allowed. Consequently, the entire proceedings of CrI. Case No.-55800/2017 are hereby quashed qua the applicants in terms of settlement agreement.

11. It is also provided that from the amount deposited by the applicant of Rs.25,000/- in terms of order dated 27.02.2023, Rs.20,000/- shall be provided to the opposite party No.2, if already not provided.

12. Office/Registry is directed to send the copy of this order to the court concerned through email/fax for necessary compliance.

Order Date :- 31.1.2025 G. Singh/ Anand