

Avanish Yadav And 3 Others vs State Of U.P. And Another on 3 March, 2025

Author: Manju Rani Chauhan

Bench: Manju Rani Chauhan

HIGH COURT OF JUDICATURE AT ALLAHABAD

?Neutral Citation No. - 2025:AHC:29934

Court No. - 52

Case :- APPLICATION U/S 528 BNSS No. - 6858 of 2025

Applicant :- Avanish Yadav And 3 Others

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

Counsel for Applicant :- Ajay Vikram Yadav

Counsel for Opposite Party :- G.A.

Hon'ble Mrs. Manju Rani Chauhan,J.

1. Heard Mr. Ajay Vikram Yadav, learned counsel for the applicants, Mr. Rizwan Ahmad, learned counsel for the State and perused the records.

2. The present 482 Cr.P.C. application has been filed to quash the charge sheet no.163 of 2023 dated 17.10.2023 and cognizance/summoning order dated 14.12.2023 as well as the entire proceeding of Case No.30040 of 2023 (State vs. Avanish Yadav and Others), arising out of Case Crime No.144 of 2023, under Sections 498A, 323, 504, 506 IPC and Section 3/4 D.P. Act, Police Station-Barhan, District-Agra, pending before the court of Additional Chief Judicial Magistrate IInd, Agra on the basis of compromise.

3. Earlier, the applicants have approached before this Court by means of filing an application U/s 482 Cr.P.C. bearing No.40028 of 2024 wherein the following order was passed:-

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

The present 482 Cr.P.C. application has been filed to quash the charge sheet no.163 of 2023 dated 17.10.2023 and cognizance/summoning order dated 14.12.2023 as well as the entire proceeding of Case No.30040 of 2023 (State vs. Avanish Yadav and Others), arising out of Case Crime No.144 of 2023, under Sections 498A, 323, 504, 506 IPC and Section 3/4 D.P. Act, Police Station-Barhan, District-Agra, pending before the court of Additional Chief Judicial Magistrate IInd, Agra on the basis of compromise.

Learned counsel for the applicants submits that the present dispute is a result of matrimonial discord between the applicant no.1 (husband) and opposite party no.2. Now, the parties have reconciled their differences and a compromise has been entered between them and they are decided to live separately. In this regard, an application alongwith compromise deed on behalf of opposite party no.2 has been filed before the court concerned, copy of the same has been appended as Annexure No.3 of this application. Therefore, continuance of proceedings against the applicants would be futile exercise and wastage of time of the Court and will be abuse of process of law. Hence, proceedings of the aforesaid case be quashed in the light of law laid down by the Apex Court in the case of Gian Singh v. State of Punjab reported in (2012) 10 SCC 303.

Learned AGA, however, submits that it is the concerned court below, which has to verify the fact as to whether the parties have entered into compromise, hence the applicants may approach the concerned court below and move an application with respect to compromise between the parties, which will be decided in accordance with law.

In view of the above, both the parties are directed to appear before the court below along with an application for verification of compromise deed as well as a certified copy of this order. It is expected that the trial court may fix a date for the verification of the compromise and after ensuring the presence of parties, pass an appropriate order with respect to the same in accordance with law, as expeditiously as possible, preferably within a period of two months from today. While passing the order verifying the compromise, the concerned court shall also record the statement of the parties as to whether all the terms and conditions mentioned in the original compromise deed, so filed, have been fulfilled or not?

The court in that scenario will allow the parties to obtain certified copy of the order verifying the compromise deed and it will be open to the applicants to approach this Court again for quashing of the proceedings.

Till verification of compromise between the parties by the court concerned, no coercive action shall be taken against the applicants in the aforesaid case.

With the aforesaid directions, this application is finally disposed of."

4. In compliance of the aforesaid order, the compromise between the parties has been verified by Additional Chief Judicial Magistrate, Court No.2, Agra vide order dated 10.01.2025 in the presence of the parties alongwith their respective counsels. Certified copy of the order dated 10.01.2025 has been annexed as Annexure No.6 to this application affidavit.

5. Learned counsel for the applicants submits that on account of compromise entered into between the parties concerned, all disputes between them have come to an end, and therefore, further proceedings against the applicant in the aforesaid case is liable to be quashed by this Court.

6. Learned A.G.A. for the State as well as counsel for the opposite party no.2 does not dispute the aforesaid fact and submitted at the Bar that since the parties concerned have settled their dispute as mentioned above, therefore, they have no objection in quashing the impugned criminal proceedings against the applicants.

7. Before proceeding any further it shall be apt to make a brief reference to the following cases:-

1. B.S. Joshi and others Vs. State of Haryana and Another; (2003)4 SCC 675,
2. Nikhil Merchant Vs. Central Bureau of Investigation; (2008) 9 SCC 677,
3. Manoj Sharma Vs. State and Others; (2008) 16 SCC 1,
4. Gian Singh Vs. State of Punjab; (2012); 10 SCC 303,
5. Narindra Singh and others Vs. State of Punjab; (2014) 6 SCC 466,

8. In the aforesaid judgments, the Apex Court has categorically held that compromise can be made between the parties even in respect of certain cognizable and non compoundable offences. Reference may also be made to the decision given by this Court in Shaifullah and Others Vs. State of U.P. & Another; 2013 (83) ACC 278. in which the law expounded by the Apex court in the aforesaid cases has been explained in detail.

9. Considering the facts and circumstances of the case, as noted herein above, and also the submissions made by the counsel for the parties, the court is of the considered opinion that no useful purpose shall be served by prolonging the proceedings of the above mentioned criminal case as the parties have already settled their dispute.

10. Accordingly, the charge sheet no.163 of 2023 dated 17.10.2023 and cognizance/summoning order dated 14.12.2023 as well as the entire proceeding of Case No.30040 of 2023 (State vs. Avanish

Yadav and Others), arising out of Case Crime No.144 of 2023, under Sections 498A, 323, 504, 506 IPC and Section 3/4 D.P. Act, Police Station-Barhan, District-Agra, pending before the court of Additional Chief Judicial Magistrate IIInd, Agra is hereby quashed.

11. The application is, accordingly, allowed. There shall be no order as to costs.

12. It is always open to the parties to approach before this Court in case verification has been done by playing fraud.

13. A copy of this order be sent to the lower court forthwith.

Order Date :- 3.3.2025 Jitendra/-