

# **Smt.Kamlesh Sharma And Another vs State Of U.P. And Another on 2 January, 2025**

**Author: Dinesh Pathak**

**Bench: Dinesh Pathak**

HIGH COURT OF JUDICATURE AT ALLAHABAD

?Neutral Citation No. - 2025:AHC:9

Court No. - 74

Case :- APPLICATION U/S 482 No. - 44010 of 2024

Applicant :- Smt.Kamlesh Sharma And Another

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

Counsel for Applicant :- Himanshu Mishra

Counsel for Opposite Party :- G.A.

Hon'ble Dinesh Pathak,J.

1. Heard learned counsel for the applicants, learned AGA and perused the record. None is present on behalf of the opposite party No.2.

2. In view of the peculiar facts and circumstances of the present case and the order proposed to be passed hereunder, this Court proceeds to decide the instant application finally without putting notice to the contesting opposite party no.2, with the liberty that in case facts and details, as averred in the instant application are found incorrect, he may move a recall application against the order of the date.

3. The applicant has invoked the inherent jurisdiction of this Court under Section 482 Cr.P.C. to quash the entire proceeding in Special Session Trial No. 351 of 2023 (State Vs. Kamlesh and others), arising out of Case Crime No. 681 of 2022, under Sections 323, 504, 506, 354 I.P.C., and 3 (2) Va

SC/ST Act, Police Station- Atmadaula, District - Agra, pending in the court of Special Judge (SC/ST Act), Agra.

4. It is submitted that during the pendency of the criminal proceedings, both parties were arrived at a compromise and settled their dispute amicably out of the Court. The present applicants have moved an application being Application under Section 482 No.23108 of 2023 (Smt.Kamlesh Sharma and another Vs. State of U.P. and another) with the prayer to quash the criminal proceedings on the basis of compromise.

5. Having considered the amicable settlement arrived at between the parties, this Court, vide order dated 5.7.2023, passed in the aforesaid criminal matter, has relegated the parties before the court below to get their compromise verified and granted liberty to approach before this court again to get the criminal proceedings quashed on the basis of compromise verification. For ready reference, the order dated 5.7.2023 is quoted hereinbelow:-

"Heard learned counsel for the applicants, learned Additional Government Advocate for the State and perused the record.

This application under Section 482 Cr.P.C. has been filed by the applicants for quashing the entire proceeding of Special Trial No. 351 of 2023 (State Vs. Kamlesh and others), arising out of Case Crime No. 681 of 2022, under Sections 323, 504, 506, 354 IPC and 3(2)Va SC/ST Act, police station Atmadaula, district Agra, pending in the court of Special Judge (SC/ST Act), Agra.

It is submitted by the learned counsel for the applicants that in this case opposite party No. 2 lodged a first information report on 07.10.2022 against the applicants under Sections 323, 504, 506, 354 IPC and 3(2)Va SC/ST Act, in which charge sheet was submitted on 06.12.2022, on which the Magistrate concerned took cognizance. After submission of charge-sheet the parties concerned entered into a compromise outside the Court and compromise deed was also prepared on 12.5.2023, which has been filed as Annexure 4 to the affidavit. It is submitted that no compromise application has yet been filed before the concerned court below, where criminal proceeding is pending against the applicants and requested to allow the applicants to move compromise application before the concerned court below.

Whether the parties have, in fact, compromised the matter or not, can best be ascertained by the Court below, as such said compromise has to be duly verified in presence of the parties concerned before the Court.

On the request made by learned counsel for the applicants three weeks' time is allowed to the applicants to file compromise application before the concerned court below.

Accordingly, the concerned Court below is directed that in case such compromise application is filed by the applicant before it within aforesaid period, it shall issue notices to all the signatories to the compromise requiring their personal presence and, thereafter, proceed to verify the compromise. If the aforesaid compromise is verified, a report to that effect shall be prepared by the Court and the compromise will be made part of the record. The Court in that scenario will allow the parties to obtain certified copy of the report as well as compromise 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 the application stands disposed of."

6. In pursuance of the order dated 5.7.2023 passed by this Court, both parties appeared before the court below and their compromise has been verified vide order dated 7.8.2024. Before verification of the compromise, the learned court has passed the order dated 3.7.2024 with an observation that the District Social Welfare Officer, vide its letter dated 24.6.2024, has informed that both victims have returned the compensation amount as received under the SC/ST Act. For ready reference, the order dated 3.7.2024 passed by court below is quoted hereinbelow:-

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8. Learned counsel for the applicants submits that, in the above eventuality of the compromise took place between the parties and the aforementioned compromise verification order, the instant application may be allowed and the criminal proceeding initiated against the present applicants may be quashed. It is further submitted that both the parties have buried the hatchet and there is no grudges between them against each other. To quash the cognizance order as well as criminal proceeding, learned counsel for the applicant has relied upon the following judgments of the Hon'ble Apex Court :-

(i) B.S.Joshi & Others Vs. State of Haryana & Others; (2003) 4 SCC 675.

(ii) Nikhil Merchant Vs. Central Bureau of Investigation; (2008) 9 SCC 667.

(iii) Manoj Sharma Vs. State & Others; (2008) 16 SCC 1.

(iv) Gyan Singh Vs. State of Punjab (2012) 10 SCC 303.

(v) Narindra Singh & Others Vs. State of Punjab (2014) 6 SCC 466.

9. In a recent judgment passed by a Three Judges' Bench of the Apex Court in the Case of Parbatbhai Aahir alias Parbatbhai Bhimsinhbhai Karmur and others Vs. State of Gujarat and another, reported in AIR 2017 SC 4843, Hon'ble Supreme Court has summarized the ratio of all the cases decided earlier with respect to quashing of F.I.R./charge-sheet/criminal proceeding on the ground of settlement between the parties and expounded the ten categories in which application under Section 482 could be entertained for quashing the F.I.R./charge-sheet/criminal proceeding on the basis of compromise. Para no. 15 of the said judgement summarizing the proposition in this respect is reproduced below:-

"15. (i) Section 482 preserves the inherent power 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;

(ii) 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.

(iii) 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;

(iv) 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;

(v) 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;

(vi) In 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 approximately 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;

(vii) 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 insofar as the exercise of the inherent power to quash is concerned;

(viii) 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;

(ix) 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

(x) There is yet an exception to the principle set out in propositions (viii) and (ix) 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."

10. Certified copies of order dated 3.7.2024 and order dated 7.8.2024 are filed as Annexure no.6 and Annexure no.7 respectively.

11. Learned AGA has no objection, in case, the instant application is decided by this Court on the basis of compromise took place between the parties, which is duly verified by the court concerned.

12. Having considered the aforementioned compromise verification report as well as the compromise verification order and with the assistance of the aforesaid guidelines, keeping in view the nature of gravity and severity of the offence, which are more particular in private dispute, it is deemed proper that in order to meet the ends of justice, the present proceeding should be quashed. In result, dispute between the parties will put to an end, peace will be resorted and relationship between them will be smooth. No useful purpose would be served to keep the present matter pending inasmuch as both the parties have buried the hatchet and as the time passes, it will be difficult to prove the guilt of the accused. The continuation of criminal proceeding would cause oppression and prejudice.

13. In view of the aforesaid pronouncements of the Hon'ble Apex Court and in the light of the compromise arrived at between the parties, which has been duly verified by the concerned court below, the present application under Section 482 Cr.P.C. is hereby allowed. The entire criminal proceeding of the aforementioned case is hereby quashed.

14. Let a copy of the order be transmitted to the concerned lower Court for necessary action.

Order Date :- 2.1.2025/vkg