

Staya Prakash Mishra vs State Of U.P. Thru. Prin. Secy. Home ... on 30 April, 2025

Author: Alok Mathur

Bench: Alok Mathur

HIGH COURT OF JUDICATURE AT ALLAHABAD, LUCKNOW BENCH

?Neutral Citation No. - 2025:AHC-LK0:25301

Court No. - 12

Case :- APPLICATION U/S 482 No. - 7784 of 2023

Applicant :- Staya Prakash Mishra

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

Counsel for Applicant :- Shailender Singh,Ankit Tiwari,Varun Kumar Mishra

Counsel for Opposite Party :- G.A.,Manoj Kumar Chaurasiya,Shobhit Mohan Shukla

Hon'ble Alok Mathur,J.

1. Heard Mr. Shailendra Singh, learned counsel for the applicant, learned AGA for the State and perused the material available on record.
2. This application under Section 528 of the Bhartiya Nagarik Suraksha Sanhita, 2023 (482 Cr.P.C.) has been filed with the prayer to quash the entire proceedings of Complaint Case No. 4020 of 2017, under Section 138 of the Negotiable Instruments Act, 1881, Police Station Naka Hindola, District Lucknow pending in the court of learned Additional Court No. 8, Lucknow.

3. The contention of learned counsel for the applicant is that this matter was sent to mediation centre of this Court vide order dated 09.08.2023 and in pursuance of said order, both the parties have participated in mediation proceedings which was culminated into successful mediation and the parties have executed an agreement dated 12.01.2024. Copy of the same is available on record along with report of mediation. As per the settlement agreement dated 12.01.2024 executed in mediation centre, both the parties have decided to withdraw the case against each other.

4. The terms and conditions of the aforesaid settlement, are being quoted herein below:-

"A. That the First Party has agreed to pay a sum total of Rs. 1,30,00,000/- (One Crore Thirty Lakh only) to the Second Party towards one time full and final settlement of all the claims of the Second Party against the First Party in respect of the cases mentioned herein below:

I. Complaint Case Number 308/2018 U/S 138 N.I. ACT, titled as Amitabh Pande VS Satya Prakash Mishra ? . Complaint Case Number 305/2018 U/S 138 N.I. ACT, titled Amitabh Pande VS Satya Prakash Mishra.

111. Complaint Case Number 307/2018 U/S 138 N.I. ACT, titled Amitabh Pande VS Satya Prakash Mishra.

IV. Complaint Case Number 6789/2017 U/S 138 N.I. ACT, titled Amitabh Pande VS Satya Prakash Mishra.

V. Complaint Case Number 6780/2017 U/S 138 NI. ACT, titled Amitabh Pande VS Satya Prakash Mishra.

VI. Complaint Case Number 306/2018 U/S 138 N.I. ACT, titled Amitabh Pande VS Satya Prakash Mishra VIL Complaint Case Number 6790/2017 U/S 138 N.1. ACT, titled Amitabh Pande VS Satya Prakash Mishra.

VIII. Complaint Case Number 7967/2020 U/S 138 N.I. ACT, titled Amitabh Pande VS Abhilasha Enterprises Pvt Ltd.

IX Complaint Case Number 2844/2019 U/S 138 N.I. ACT, titled Amitabh Pande VS Abhilasha Enterprises Pvt Ltd.

X Complaint Case Number 7955/2020 U/S 138 N.1. ACT, titled Amitabh Pande VS Abhilasha Enterprises Pvt Ltd.

XI. Complaint Case Number 4020/2017 U/S 138 N.1. ACT, titled Amitabh Pande VS Satya Prakash Mishra.

XII. Complaint Case Number 3977/2017 U/S 138 N.I. ACT, titled Amitabh Pande VS Satya Prakash Mishra.

XIII. Complaint Case Number 3975/2017 U/S 138 N.I. ACT, titled Amitabh Pande VS Satya Prakash Mishra XIV. Complaint Case Number 6038/2018 U/S 138 N.1. ACT, titled Amitabh Pande VS Abhilasha Institute of Management & Technology XV Complaint Case Number 3625/2018 U/S 138 N.L. ACT, titled Amitabh Pande VS Abhilasha Enterprises Pvt Ltd XVI. Complaint Case Number 3624/2018 U/S 138 N.I. ACT, titled Amitabh Pande VS Abhilasha Enterprises Pvt Ltd XVII. Complaint Case Number 2849/2019 U/S 138 N.1. ACT, titled Amitabh Pande VS Satya Prakash Mishra XVIII. Complaint Case Number 3973/2017 U/S 138 N.I. ACT, titled Amitabh Pande VS Satya Prakash Mishra XIX. Complaint Case Number 3972/2017 U/S 138 N.I. ACT, titled Amitabh Pande VS Satya Prakash Mishra XX. Complaint Case Number 3971/2017 U/S 138 N.I. ACT, titled Amitabh Pande VS Satya Prakash Mishra XXI. Complaint Case Number 6040/2018 U/S 138 N.I. ACT, titled Amitabh Pande VS Abhilasha Institute of Management & Technology XXII. Complaint Case Number 3622/2018 U/S 138 N.1. ACT, titled Amitabh Pande VS Abhilasha Enterprises Pvt Ltd XXIII. Complaint Case Number 3621/2018 U/S 138 N.I. ACT, titled Amitabh Pande VS Abhilasha Enterprises Pvt Ltd.

XXIV. Complaint Case Number 7557/2019 U/S 138 N.I. ACT, titled Shubha Pande VS Satya Prakash Mishra.

XXV. Complaint Case Number 6039/2018 U/S 138 N.I. ACT, titled Shubha Pande VS Satya Prakash Mishra.

XXVI. Complaint Case Number 3623/2018 U/S 138 N.I. ACT, titled Shubha Pande VS Satya Prakash Mishra.

XXVII. Case Crime Number 096/2018 U/S 406, 420 IPC, P. S. Hazratganj, District-Lucknow titled as State Vs Satya Prakash Mishra.

B. That the parties have agreed that out of aforementioned Rs. 1,30,00,000/- (One Crore Thirty Lakh only) a sum of Rs. 30,00,000/- (Thirty Lakh only) shall be paid in shape of Demand Draft within 45 days from today i.e. by 26th February, 2024 from the First Party to the Second Party.

C. That the parties have agreed that the balance amount Rs. 1,00,00,000/- (One Crore) shall be paid by the First Party to the Second Party as mutually decided between them latest by 31.12.2024.

D. The parties have agreed that the two cars, one having it's make Mahindra XUV 500 bearing registration no. UP32FQ1444 and another's make Hyundai I-20 bearing registration no. UP32GK4555 both in the name of First Party, kept in possession of Second Party, shall be handed over to the First Party by the Second Party on the date on which the aforementioned balance amount of Rs. 1,00,00,000/- (One Crore) is paid by the First Party to the Second Party.

E. That the Second Party has agreed not to pursue the case bearing Complaint Case No. 4020 U/S 138 N.I. Act, Police Station- Naka Hindola, Lucknow. The Second Party has further agreed that he would not be having any objection if the APPLICATION U/s 482 No. 7784 of 2023 (Satya Prakash Mishra Vs State of U.P. & Another) is decided by the Hon'ble Court in terms of this settlement agreement.

F. That the Second Party has agreed to withdraw/not press the cases filed against the First Party and his companies, details of which have been mentioned in para 6-A of this settlement agreement.

G. In addition to the cases mentioned in para 6-A, if any other case(s) is pending between the parties, the Second Party shall not have any objection if the pending case(s) is disposed of by the Hon'ble Court in terms of this Settlement Agreement.

H. That the Second Party has agreed that he shall not be having any objection if the Hon'ble Court passes orders for release of the amounts deposited by the First Party before this High Court in favour of the First Party.

L. That it is also agreed between the parties that neither they themselves nor any member of their respective families shall institute any case in future in the form of criminal or civil proceedings against each other or against any of their relative or family members in respect of present dispute or any matter incidental thereto and if any proceeding has already been initiated, both the parties would get it disposed of in terms of this settlement Agreement.

J. That both the parties shall be bound by the terms and conditions of this Settlement in strict sense. In case of any default, the party committing the default shall be liable for playing fraud with the Court, hence for contempt of the Court. The parties have agreed that in case the First Party fails to pay the amount to the Second Party as agreed herein above, the amount already given by the First Party to the Second Party and the abovementioned two cars shall be forfeited by the Second Party and it will be open for the Second Party to reopen/restore the case which would stand disposed off in terms of this Settlement Agreement by moving an appropriate application before competent Court/Forum.

K. That Anidya Pandey and Anidya Pande are the names of one and same person. As per the identity documents his name spells as Anidya Pande.

7. By Signing this Agreement the Parties hereto state that they have no further claims or demands against each other with respect to the matter involved in APPLICATION U/s 482 No. 7784 of 2023 (Satya Prakash Mishra Vs State of U.P. & Another) and all disputes and differences in this regard have been amicably settled by the Parties hereto through the process of Conciliation/Mediation."

5. Learned counsel for the applicant thus submits that since both the parties have entered into compromise and settled their dispute amicably which was also reduced in writing, the aforesaid case may be quashed.

6. Learned counsel for opposite party no. 2 as well as learned AGA for the State could not dispute the aforesaid fact.

7. Hon'ble Apex Court in the case of Gian Singh Vs. State of Punjab & Another; (2012) 10 SCC 303, in paragraph No. 61 of the judgement, observed as under:-

"The position that emerges from the above discussion can be summarised thus: 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 the 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 flavour 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 the criminal proceedings if in its view, because of the compromise between the offender and the victim, the possibility of conviction is remote and bleak and continuation of the criminal case would put the 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 the affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding."

8. Hon'ble Apex Court in the case of State of M.P. vs. Laxmi Narayan; (2019) 5 SCC 688, observed as under:-

"15.1. the power conferred under Section 482 of the Code to quash the criminal proceedings for the non-compoundable offences under Section 320 of the Code can be exercised having overwhelmingly and predominantly the civil character, particularly those arising out of commercial transactions or arising out of matrimonial relationship or family disputes and when the parties have resolved the entire dispute amongst themselves;

15.2. such power is not to be exercised in those prosecutions which involved heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. Such offences are not private in nature and have a serious impact on society;

15.3 similarly, such power is not to be exercised for the offences under the special statutes like the Prevention of Corruption Act or the offences committed by public servants while working in that capacity are not to be quashed merely on the basis of compromise between the victim and the offender.

15.4. Offences under Section 307 IPC and the Arms Act, etc. would fall in the category of heinous and serious offences and therefore are to be treated as crime against the society and not against the individual alone, and therefore, the criminal proceedings for the offence under Section 307 IPC and/or the Arms Act, etc. which have a serious impact on the society cannot be quashed in exercise of powers under Section 482 of the Code, on the ground that the parties have resolved their entire dispute amongst themselves. However, the High Court would not rest its decision merely because there is a mention of Section 307 IPC in the FIR or the charge is framed under this provision. It would be open to the High Court to examine as to whether incorporation of Section 307 IPC is there for the sake of it or the prosecution has collected sufficient evidence, which if proved, would lead to framing the charge under Section 307 IPC. For this purpose, it would be open to the High Court to go by the nature of injury sustained, whether such injury is inflicted on the vital/delicate parts of the body, nature of weapons used, etc. However, such an exercise by the High Court would be permissible only after the evidence is collected after investigation and the charge-sheet is filed/charge is framed and/or during the trial. Such exercise is not permissible when the matter is still under investigation. Therefore, the ultimate conclusion in paras 29.6 and 29.7 of the decision of this Court in Narinder Singh [Narinder Singh v. State of Punjab, (2014) 6 SCC 466 : (2014) 3 SCC (Cri) 54] should be read harmoniously and to be read as a whole and in the circumstances stated hereinabove;"

9. From above noted judgements, it is clear that merely mentioning the section of serious offences will not refrain the court from quashing the proceeding, if on considering the material on record, offences under that section is not made out.

10. Considering the material on record, this Court finds that no serious offence is made out against the applicants, which falls in the category of mental depravity or serious offences.

11. Considering the fact as well as on perusal of record, it appears that no heinous and serious offences of mental depravity or other offences, which may affect the society in general, are made out and both the parties have amicably settled their dispute through compromise which has been duly verified by the court below as well as in view of the law laid down by the Apex Court in Gian Singh Vs. State of Punjab & Another ; (2012) 10 SCC 303, Narinder Singh & Others vs. State of Punjab & Another (2014) 6 SCC 477, State of M.P. Vs. Laxmi Narayan, (2019) 5 SCC 688 and State of M.P. vs. Dhruv Gurjar, AIR 2017 SC 1106, the proceedings of Complaint Case No. 4020 of 2017, under Section 138 of the Negotiable Instruments Act, 1881, Police Station Naka Hindola, District Lucknow pending in the court of learned Additional Court No. 8, Lucknow, is hereby quashed.

12. With the aforesaid direction, the present application is allowed.

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(Alok Mathur, J.) Order Date :- 30.4.2025 Virendra