

Hari Om @ Lankesh And Another vs State Of U.P. And 2 Others on 3 January, 2025

Bench: Mahesh Chandra Tripathi, Yogendra Kumar Srivastava

HIGH COURT OF JUDICATURE AT ALLAHABAD

?Neutral Citation No. - 2025:AHC:1660-DB

Court No. - 42

Case :- CRIMINAL MISC. WRIT PETITION No. - 23763 of 2024

Petitioner :- Hari Om @ Lankesh And Another

Respondent :- State Of U.P. And 2 Others

Counsel for Petitioner :- Ajay Dubey

Counsel for Respondent :- G.A.

Hon'ble Mahesh Chandra Tripathi,J.

Hon'ble Dr. Yogendra Kumar Srivastava,J.

1. Heard learned counsel for the petitioners, Sri Om Prakash, learned counsel for the informant and learned A.G.A. for the State respondents.

2. The present writ petition has been preferred with prayer to quash the impugned First Information Report dated 14.12.2024 registered as Case Crime No.0665 of 2024, under Section 87 of The Bhartiya Nyaya Sanhita (B.N.S.) 2023, P.S. Bahjoi, District-Sambhal and for a direction to the respondents not to arrest the petitioners in pursuance of impugned First Information Report.

3. Learned counsel for the petitioners submits that the first petitioner and the informant have

solemnized their marriage on 16.12.2024 at Arya Samaj Sansthan, Prayagraj. They have also applied online for registration of their marriage, before Marriage Registration Officer, Sambhal, Chandausi, District Sambhal on 16.12.2024. They are living together as husband and wife and as such, the first information report is liable to be quashed.

4. Learned counsel for the complainant has given a nod to the said situation.

5. Learned A.G.A., on the instructions, states that till date the police report has not been submitted in the present matter. He has submitted that once the victim, who is major, has herself admitted that she has already solemnized marriage with the petitioner no.1, he has no objection, if the matter is decided on merit.

6. It is jointly submitted that this being an offshoot of a matrimonial dispute, same has come to be amicably resolved and as such, the pending proceedings would serve no purpose and the same are liable to be quashed in the light of the judgements of the Hon'ble Apex Court in the case of B.S. Joshi v. State of Haryana and others, 2003(4) SCC 675, and Gian Singh v. State of Punjab, 2012(10) SCC 303.

7. The Hon'ble Apex Court in the case of B.S Joshi (supra) has held that in case the matrimonial dispute has come to an end, under a compromise/settlement, between the parties, then notwithstanding anything contained under Section 320 IPC, there is no legal impediment for this court to quash the proceedings of Section 87 of The Bhartiya Nyaya Sanhita (B.N.S.) 2023, which has matrimonial flavour under its inherent powers in view of the recorded settlement between the parties. The Apex Court in the case of Gian Singh (supra) has held in para-61 that;

"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 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 favour 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 criminal proceedings if in its view, because of the compromise between the offender and victim, the possibility of conviction is remote and bleak and continuation of criminal case would put 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 affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding."

8. We have proceeded to examine the record in question and find that once the age of the victim girl is not in dispute and she herself states that she has married with the first petitioner out of her own free will, then the petitioners cannot be made accused as the victim had left her home in order to live with the first petitioner and both the petitioner and the victim are enjoying their matrimonial life and are living together as husband and wife.

9. In view of the above discussion, we are of the considered view that no offence under Section 87 of The Bhartiya Nyaya Sanhita (B.N.S.) 2023 is made out against the petitioners as the victim has come up with the categorical stand that she had left her home with the petitioner no.1 willingly and is living with him as a married woman.

10. Consequently, the writ petition is allowed and the impugned First Information Report dated 14.12.2024 registered as Case Crime No.0665 of 2024, under Section 87 of The Bhartiya Nyaya Sanhita (B.N.S.) 2023, P.S. Bahjoi, District-Sambhal as well as all consequential proceedings are hereby quashed.

Order Date :- 3.1.2025 Shiv