



2026:AHC:67555

HIGH COURT OF JUDICATURE AT ALLAHABAD

APPLICATION U/S 528 BNSS No. - 11547 of 2026

Jeetu @ Jeetu Kumar

.....Applicant(s)

Versus

State Of U.P. And 3 Others

.....Opposite
Party(s)

Counsel for Applicant(s)	:	Akhilesh Kumar Yadav
Counsel for Opposite Party(s)	:	Amit Kumar Yadav, G.A.

Court No. - 80

HON'BLE VIVEK KUMAR SINGH, J.

1. Short counter affidavit filed today is taken on record.
2. Sri Akhilesh Kumar Yadav, learned counsel for the applicant, Sri Amit Kumar Yadav, learned counsel for the opposite party no. 2/informant and learned A.G.A. for the State, are present.
3. The present application under Section 528 of B.N.S.S. has been filed with a prayer to quash the entire proceedings of Criminal Case No. 172 of 2024 (State vs. Jeetu) arising out of Case Crime No. 77 of 2024, under Sections 3, 4(2) of POCSO Act, P.S. Dakor, District Jalaun, as well as chargesheet dated 28.10.2024 and cognizance/summoning order dated 29.10.2024, pending in the court of Additional District and Sessions Judge/Special Judge (POCSO Act), Jalau, at Orai.
4. It is submitted by the learned counsel for the applicant that the applicant and other co-accused Arvind and Udai Bhan, were made accused in Case Crime No. 77 of 2024, under Section 366 of I.P.C., P.S. Dakor, District Jalaun. The statement of the victim was recorded during the course of investigation wherein she admitted that she has solemnized her marriage with the applicant in Allahabad and she wanted to live with the applicant. Similar statement was given by the victim when she was produced before the learned Magistrate for recording her statement under Section 164 of Cr.P.C. She admitted that her marriage with the applicant was solemnized on 15.08.2024. The chargesheet was submitted against the applicant and other co-accused who filed an Application 528 B.N.S.S. No. 6202 of 2025 (Arvind and Another vs. State of U.P. and Three Others) which was referred to the Mediation Centre of this Court.

5. It is further submitted that the parties entered into compromise on 12.08.2025 before the Mediation Centre of this Court, however, the applicant was not party in the settlement agreement, but he made his signature on the settlement agreement dated 12.08.2025 and it has been mentioned in the settlement agreement that the victim and the applicant have solemnized their marriage and they are living together as husband and wife in a harmonious manner. The victim further stated that the proceedings against the applicant be dropped in view of settlement and marriage of the applicant and the victim. The proceedings against the co-accused Arvind and Udai Bhan, were quashed by this Court vide order dated 18.08.2025 in Application U/S 528 B.N.S.S. No. 6202 of 2025.

6. It is further contended that in view of the said compromise, the pending proceedings before the court below be quashed in the light of the Judgments of Apex Court in the case **B.S. Joshi v. State of Haryana and others, 2003(4) SCC 675**, and that of **Gian Singh v. State of Punjab, 2012(10) SCC 303**.

7. Learned counsel for the applicants in support of his contention has placed reliance on the judgments of Apex Court in the case of **Narinder Singh vs. State of Punjab reported in (2014) 6 SCC 466**, **Yogendra Yadav vs. State of Jharkhand reported in (2014) 9 SCC 653** and **Parbatbhai Aahir Vs. State of Gujarat reported in (2017) 9 SCC 641** and has submitted that the applicants and opposite party no. 2 have settled their differences through compromise and as such opposite party no. 2 does not wish to press the aforesaid case against the applicants. Opposite party no. 2 is ready to withdraw the prosecution of the applicants and in view of the compromise, no fruitful purpose would be served if the prosecution is allowed to go on.

8. On the other hand, learned counsel for opposite party no. 2 and learned A.G.A. for the State have no objection to the above submissions. In the short counter affidavit which has been filed on behalf of victim, it is admitted by the victim that a baby girl was born on 29.12.2025 out of the wedlock of the applicant and the victim and the victim was a major girl whose date of birth was 01.01.2004. In order to substantiate the averment made in the short counter affidavit a copy of the Aadhar Card of the victim and birth certificate of the baby girl of the applicant and victim, have been appended in the short counter affidavit.

9. The Apex Court in the case of **B.S Joshi (Supra)** has held that in case the

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 498-A I.P.C etc, 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."

10. In a recent judgment in **Ram Gopal and Another vs. State of Madhya Pradesh**, (Criminal Appeal No. 1488 of 2012), decided on 29.9.2021,

reported in **(2022) 118 ACC 318**, the Supreme Court once again reiterated that even if the offences are non-compoundable, the High Court can quash the proceedings in exercise of its inherent powers under Section 482 CrPC, having regard to the nature of the offences and the fact that parties have amicably settled their dispute and the victim has willingly consented to the nullification of criminal proceeding. While so holding, it has been pointed out that the High Court can indisputably evaluate the consequential effects of the offences beyond the body of an individual and thereafter adopt a pragmatic approach, to ensure that the felony, even if goes unpunished, does not tinker with or paralyse the very object of the administration of criminal justice system. In para 14 of the said judgment, the principles have been summarized as follows: -

"14. In other words, grave or serious offences or offences which involve moral turpitude or have a harmful effect on the social and moral fabric of the society or involve matters concerning public policy, cannot be construed betwixt two individuals or groups only, for such offences have the potential to impact the society at large. Effacing abominable offences through quashing process would not only send a wrong signal to the community but may also accord an undue benefit to unscrupulous habitual or professional offenders, who can secure a 'settlement' through duress, threats, social boycotts, bribes or other dubious means. It is well said that "let no guilty man escape, if it can be avoided."

11. The Supreme Court in another judgment of **Madhukar and Others vs. The State of Maharashtra and Another**, arising out of SLP (Criminal) No. 7212 of 2025, alongwith **Prabhakar vs. The State of Maharashtra and Another**, arising out of SLP (Criminal) No. 7495 of 2025, quashed the proceedings of case crime no.302 of 2023, dated 20.11.2023, under sections 324, 141, 143, 147, 149, 452, 323, 504 and 506 of the Indian Penal Code, 1860 as well as quashed the proceedings of case crime no.304 of 2023, dated 21.11.2023, under sections 376, 354-A, 354-D, 509 and 506 IPC on the basis of compromise between the parties. Paragraph nos.6, 7 and 8 of the said judgment are reproduced herein:-

"6. At the outset, we recognise that the offence under Section 376 IPC is undoubtedly of a grave and heinous nature. Ordinarily, quashing of proceedings involving such offences on the ground of settlement between the parties is discouraged and should not be permitted lightly. However, the power of the Court under Section 482 CrPC to secure the ends of justice is not constrained by a rigid formula and must be exercised with reference to the facts of each case.

7. In the present matter, we are confronted with an unusual situation where the FIR invoking serious charges, including Section 376 IPC, was

filed immediately following an earlier FIR lodged by the opposing side. This sequence of events lends a certain context to the allegations and suggests that the second FIR may have been a reactionary step. More importantly, the complainant in the second FIR has unequivocally expressed her desire not to pursue the case. She has submitted that she is now married, settled in her personal life, and continuing with the criminal proceedings would only disturb her peace and stability. Her stand is neither tentative nor ambiguous, she has consistently maintained, including through an affidavit on record, that she does not support the prosecution and wants the matter to end. The parties have also amicably resolved their differences and arrived at a mutual understanding. In these circumstances, the continuation of the trial would not serve any meaningful purpose. It would only prolong distress for all concerned, especially the complainant, and burden the Courts without the likelihood of a productive outcome.

8. Therefore, having considered the peculiar facts and circumstances of this case, and taking into account the categorical stand taken by the complainant and the nature of the settlement, we are of the opinion that the continuation of the criminal proceedings would serve no useful purpose and would only amount to abuse of process."

12. I have gone through the allegations/charges against the accused/s and I am of the opinion that these are not of such nature as would fall within the excepted class of cases where quashing the proceeding and permitting the accused to go unpunished, would have any detrimental effect on the society at large. As the parties have already settled their dispute, there is no likelihood of conviction of the applicants. In fact, the charges against the applicants stand impliedly withdrawn and abandoned, therefore, in order to secure ends of justice, the proceedings are liable to be quashed.

13. The Apex Court in the case of **Shriram Urav Vs. State of Chhattisgarh in Criminal Appeal No(S). 41/2021**, decided on 10.01.2025, also quashed the conviction as well as the sentence imposed upon the appellant on the ground that the appellant/accused and the complainant/victim had married each other.

14. Similarly, in the case of **Dasari Srikant vs. State of Telangana reported in (2024) SCC OnLine SC 936**, wherein, under identical circumstances and almost identical provisions the Supreme Court quashed the proceedings instituted against the accused therein. The relevant paragraph 8 to 10 of the **Dasari Srikant (supra)** read as under:-

"8. Since, the appellant and the complainant have married each other, the affirmation of the judgment rendered by the High Court would have the

disastrous consequence on the accused appellant being sent to jail which in turn could put his matrimonial relationship with the complainant in danger.

9. As a consequence, we are inclined to exercise the powers under Article 142 of the Constitution of India for quashing the conviction of the accused appellant as recorded by the learned trial Court and modified by the High Court.

10. As a result, the impugned judgment dated 27th June, 2023 passed by the High Court and judgment dated 9th April, 2021 passed by the trial Court are hereby quashed and set aside."

15. The facts of the present case are very similar to the above judgments. Here also I find that the victim has not at all supported the prosecution version instead according to her she voluntarily went with the applicant-accused on the date of alleged offence. Thereafter, she married him. Therefore, by no stretch of imagination, it can be said that no offence under Sections 363, 366 and 376(3) of the IPC read with Section 3/4(2) of POCSO Act has been made out. The police has submitted charge-sheet in mechanical manner without due application of mind and unfortunately the trial court has also not considered the matter in correct perspective. Secondly, the question arises here as to whether the proceedings of criminal case under Section 363, 366 and 376(3) of the IPC read with Section 3/4(2) of POCSO Act can be quashed by the High Court in the Application under Section 482 Cr.P.C. and 528 BNSS, if the parties have settled their dispute amicably and living as husband and wife for a long period and a child was born out of wedlock.

16. The Apex Court in the case of **K. Dhandapani Vs. The State by the Inspector of Police, 2022 SCC onLine SC 1056 and Mafat Lal and Others vs. The State of Rajasthan, 2022 SCC OnLine SC 433**, also quashed the proceedings against the accused therein on the grounds that the accused had solemnized marriage with the prosecutrix and secondly, the court cannot turn a blind eye to the said fact. Since the judgement rendered by Apex Court in the case of **K. Dhandapani (supra)** is a short one, therefore, the same is reproduced in its entirety:

"Leave granted.

The appellant who is the maternal uncle of the prosecutrix belongs to Valayar community, which is a most backward community in the State of Tamilnadu. He works as a woodcutter on daily wages in a private factory. FIR was registered against him for committing rape under Sections 5(j)(ii) read with

Section 6, 5(I) read with Section 6 and 5(n) read with Section 6 of Protection of Child from Sexual Offences (POCSO) Act, 2012. He was convicted after trial for committing the said offences and sentenced to undergo rigorous Reason: imprisonment for a period of 10 years by the Sessions Judge, Fast Track Mahila Court, Tiruppur on 31.10.2018. The High Court, by an order dated 13.02.2019, upheld the conviction and sentence. Aggrieved thereby, the appellant has filed this appeal.

Mr. M.P.Parthiban, learned counsel appearing for the appellant, submitted that allegation against him was that he had physical relations with the prosecutrix on the promise of marrying her. He stated that, in fact, he married the prosecutrix and they have two children.

The appellant submitted that this Court should exercise its power under Article 142 of the Constitution and ought to do complete justice and it could not be in the interest of justice to disturb the family life of the appellant and the prosecutrix.

After hearing the matter for some time on 08 th March, 2022, we directed the District Judge to record the statement of the prosecutrix about her present status. The statement of the prosecutrix has been placed on record in which she has categorically stated that she has two children and they are being taken care of by the appellant and she is leading a happy married life.

Dr. Joseph Aristotle S., learned counsel appearing for the State, opposed the grant of any relief to the appellant on the ground that the prosecutrix was aged 14 years on the date of the offence and gave birth to the first child when she was 15 years and second child was born when she was 17 years. He argued that the marriage between the appellant and the prosecutrix is not legal. He expressed his apprehension that the said marriage might be only for the purpose of escaping punishment and there is no guarantee that the appellant will take care of the prosecutrix and the children after this Court grants relief to him.

In the peculiar facts and circumstances of this case, we are of the considered view that the conviction and sentence of the appellant who is maternal uncle of the prosecutrix deserves to be set aside in view of the subsequent events that have been brought to the notice of this Court. This Court cannot shut its eyes to the ground reality and disturb the happy family life of the appellant and the prosecutrix. We have been informed about the custom in Tamilnadu of the marriage of a girl with the maternal uncle.

For the aforesaid mentioned reasons, the conviction and sentence of the appellant is set aside in the peculiar facts of the case and shall not be treated as a precedent. The appeal is accordingly, disposed of. Pending application(s), if any, shall stand disposed of.

In case, the appellant does not take proper care of the prosecutrix, she or the State on behalf of the prosecutrix can move this Court for modification of this Order."

17. In my considered opinion, no offence is made out under sections 363, 366 and 376(3) of the IPC read with Section 3/4(2) of POCSO Act since the victim has not levelled any allegation against the applicant in relation to the aforementioned sections inasmuch as the victim at no point of time stated that she was sexually assaulted by the applicant. Therefore, the basic ingredient to constitute an offence punishable under Sections 363, 366 and 376(3) of the IPC read with Section 3/4(2) of POCSO Act is missing. Contrary to this, the victim has solemnized marriage with the applicant and a baby girl was born out of the wedlock and they are living a happy married life for the last several years. If the proceedings of the trial court is not quashed by this Court, the applicant and the victim alongwith the child may sustain legal injury and the case of the applicant is squarely covered with the cases mentioned hereinabove.

18. In view of the discussion made herein above, the present application succeeds and is liable to be allowed. It is accordingly **allowed**.

19. The entire proceedings of Criminal Case No. 172 of 2024 (State vs. Jeetu) arising out of Case Crime No. 77 of 2024, under Sections 3, 4(2) of POCSO Act, P.S. Dakor, District Jalaun, as well as chargesheet dated 28.10.2024 and cognizance/summoning order dated 29.10.2024, pending in the court of Additional District and Sessions Judge/Special Judge (POCSO Act), Jalau, at Orai, against the applicant, are hereby **quashed**.

20. No order as to costs.

(Vivek Kumar Singh,J.)

March 31, 2026

A.P. Pandey