



2026:AHC:66942

HIGH COURT OF JUDICATURE AT ALLAHABAD

APPLICATION U/S 528 BNSS No. - 11662 of 2026

Soorajpal And 2 Others

.....Applicant(s)

Versus

State Of U.P. And 2 Others

.....Opposite
Party(s)

Counsel for Applicant(s)	:	Sudarshan Singh
Counsel for Opposite Party(s)	:	G.A., Rakesh Kumar Singh

Court No. - 80

HON'BLE VIVEK KUMAR SINGH, J.

1. Supplementary affidavit filed today is taken on record.
2. Heard learned counsel for the applicants, learned counsel appearing for the informant and learned A.G.A. appearing for the State respondents.
3. Present application u/s 528 BNSS has been filed for quashing the summoning order dated 22.11.2023 passed by Chief Judicial Magistrate, Bareilly against the applicant no. 3 and summoning order dated 3.8.2016 passed by Chief Judicial Magistrate, Bareilly against the applicant nos. 1 and 2 as well as entire criminal proceeding of S.T. No. 1052 of 2013 (State vs. Vijay) and S.T. No. 669 of 2016 (State vs. Soorajpal and another) both arising out of Case Crime No. 2369 of 2011, under Sections 363, 366, 376(2)(G), 368 IPC, Police Station Izzatnagar, District Bareilly pending before Additional Session Judge / F.T.C., Bareilly.
4. It is submitted by learned counsel for the applicants that the marriage has been solemnized between the applicant no. 1 and the victim of the present case and two children have born out of the wedlock of the married couple. It is further submitted that they have entered into compromise on 7.2.2026. It is further submitted that in view of the marriage, birth of children and compromise dated 7.2.2026, proceeding against the present applicants be quashed.
4. Learned counsel for the informant has also appeared and accepted the contention made by learned counsel for the applicants.
5. However, learned A.G.A. has vehemently opposed the prayer made by learned counsel for the applicants and stated that the incident had taken place in the year 2011. The charge-sheet was submitted in this case on 10.11.2013. The applicants were regularly appearing before the trial court. The statement of the victim has been recorded in the trial court on 16.8.2016 as P.W.-3 and she has given statement against the applicants.

She has categorically stated in her statement that she was gang raped by the accused persons / applicants. Now, the case is fixed for argument. Had the marriage been solemnized on 31.10.2011, the victim would not have given statement against the applicants on 16.8.2016. It is also submitted that no marriage certificate has been appended along with the present application and only affidavit, allegedly sworn by the victim, has been appended as evidence.

6. It is further submitted by learned A.G.A. that in view of the judgment of Hon'ble Supreme Court in the case of **Narinder Singh and others vs. State of Punjab and another** reported in **(2014) 6 SCC 466** the compromise cannot be accepted at the advance stage of trial. It is further submitted that the present application is liable to be dismissed.

6. I have heard learned counsel for the parties and have perused the record.

7. It is manifest from the record that the charge-sheet was submitted in the year 2013 and the applicants were summoned a long way back in the year 2013 and 2016. The delay in moving the present application has not been properly explained in any paragraph. This Court cannot quash the summoning order after 13 years especially when the trial is at the advance stage. From perusal of the charge-sheet appended with the supplementary affidavit it is clear that the case was fixed for argument on 22.1.2026 and now 10.4.2026 has been fixed for argument. In the meantime, so many dates were fixed by the trial court but for the reason one or another the argument could not be advanced by learned counsel for the parties.

8. Hon'ble Supreme Court in the case of **Narinder Singh (supra)** has considered the issue and issued necessary directions. Relevant paragraph of **Narinder Singh (supra)** is reproduced hereunder:-

"31. In view of the aforesaid discussion, we sum up and lay down the following principles by which the High Court would be guided in giving adequate treatment to the settlement between the parties and exercising its power under Section 482 of the Code while accepting the settlement and quashing the proceedings or refusing to accept the settlement with direction to continue with the criminal proceedings:

(I) Power conferred under Section 482 of the Code is to be distinguished from the power which lies in the Court to compound the offences under Section 320 of the Code. No doubt, under Section 482 of the Code, the High Court has inherent power to quash the criminal proceedings even in those cases which are not compoundable, where the parties have settled the matter between themselves. However, this power is to be exercised sparingly and with caution.

(II) When the parties have reached the settlement and on that basis petition

for quashing the criminal proceedings is filed, the guiding factor in such cases would be to secure:

- (i) ends of justice, or
- (ii) to prevent abuse of the process of any Court.

While exercising the power the High Court is to form an opinion on either of the aforesaid two objectives.

(III) Such a power is not to be exercised in those prosecutions which involve 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. Similarly, for offences alleged to have been committed under special statute 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.

(IV) On the other, those criminal cases having overwhelmingly and predominantly civil character, particularly those arising out of commercial transactions or arising out of matrimonial relationship or family disputes should be quashed when the parties have resolved their entire disputes among themselves.

(V) While exercising its powers, the High Court is to examine as to whether the possibility of conviction is remote and bleak and continuation of criminal cases would put the accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal cases.

(VI) Offences under Section 307 IPC would fall in the category of heinous and serious offences and therefore is to be generally treated as crime against the society and not against the individual alone. 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 proving 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/delegate parts of the body, nature of weapons used etc. Medical report in respect of injuries suffered by the victim can generally be the guiding factor. On the basis of this prima facie analysis, the High Court can examine as to whether there is a strong possibility of conviction or the chances of conviction are remote and bleak. In the former case it can refuse to accept the settlement and quash

the criminal proceedings whereas in the later case it would be permissible for the High Court to accept the plea compounding the offence based on complete settlement between the parties. At this stage, the Court can also be swayed by the fact that the settlement between the parties is going to result in harmony between them which may improve their future relationship.

(VII) While deciding whether to exercise its power under Section 482 of the Code or not, timings of settlement play a crucial role. Those cases where the settlement is arrived at immediately after the alleged commission of offence and the matter is still under investigation, the High Court may be liberal in accepting the settlement to quash the criminal proceedings/investigation. It is because of the reason that at this stage the investigation is still on and even the charge sheet has not been filed. Likewise, those cases where the charge is framed but the evidence is yet to start or the evidence is still at infancy stage, the High Court can show benevolence in exercising its powers favourably, but after prima facie assessment of the circumstances/material mentioned above. **On the other hand, where the prosecution evidence is almost complete or after the conclusion of the evidence the matter is at the stage of argument, normally the High Court should refrain from exercising its power under Section 482 of the Code, as in such cases the trial court would be in a position to decide the case finally on merits and to come a conclusion as to whether the offence under Section 307 IPC is committed or not.** Similarly, in those cases where the conviction is already recorded by the trial court and the matter is at the appellate stage before the High Court, mere compromise between the parties would not be a ground to accept the same resulting in acquittal of the offender who has already been convicted by the trial court. Here charge is proved under Section 307 IPC and conviction is already recorded of a heinous crime and, therefore, there is no question of sparing a convict found guilty of such a crime.

(emphasis supplied)

8. In such view of the matter, present application lacks merits and deserves to be dismissed and accordingly it is dismissed.

9. No order as to costs.

(Vivek Kumar Singh,J.)

March 31, 2026

Lalit Shukla