



2026:AHC:69093

HIGH COURT OF JUDICATURE AT ALLAHABAD

APPLICATION U/S 528 BNSS No. - 36014 of 2025

Sani

.....Applicant(s)

Versus

State of U.P. and Another

.....Opposite
Party(s)

Counsel for Applicant(s) : Abdul Mazeed, Syed Mahfooz Husain
Shah

Counsel for Opposite Party(s) : G.A.

Court No. - 80

HON'BLE VIVEK KUMAR SINGH, J.

1. Heard learned counsel for the applicant and learned A.G.A. appearing for the State.

2. Present application u/s 528 BNSS has been filed for quashing the charge sheet dated 27.11.2024 and cognizance as well as summoning order dated 18.01.2025 including entire proceeding in S.T. No.1587 of 2025 (State Vs. Sani), arising out of Case Crime No.331 of 2024, under Sections 406, 420, 376 I.P.C., Police Station Rasoolpur, District Firozabad, pending in the court of A.D.J./ F.T.C. Ist Firozabad.

3. It is submitted by learned counsel for the applicant that an FIR was lodged by opposite party no. 2 against the applicant and his family members on 10.09.2024, registered as Case Crime No. 331 of 2024, under Sections 406, 420, and 376 I.P.C., in respect of alleged incidents said to have occurred between 10.09.2020 and 20.02.2024. As per the allegations in the FIR, the last incident is stated to have taken place on 20.02.2024; however, the FIR was lodged after a delay of almost seven months, and no explanation for such delay has been provided by the first informant/opposite party no. 2. It is further submitted that, with the passage of time, the parties have entered into a compromise on 02.08.2025, and the applicant and the victim have solemnized their marriage and are now living together as husband and wife under the same roof. The compromise deed dated 02.08.2025 has been annexed as

Annexure No. 9 to the present application. It is also submitted that another compromise application was filed before the learned trial court on 26.11.2025, which was duly verified by the learned trial court on 02.01.2026. In the said compromise application dated 26.11.2025, it was admitted by the parties that they have entered into compromise and they are living together as husband and wife. It is further submitted by learned counsel for the applicant that the marriage between the parties was solemnized on 20.09.2024, and this fact has been duly verified by the learned court concerned in its order dated 02.01.2026. Therefore, in view of the aforesaid compromise and the fact that the parties have solemnized their marriage, it is prayed that the proceedings against the present applicant be quashed.

4. It is further contended that in view of the said compromise, the pending proceedings before the trial court 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.**

5. Learned counsel for the applicant 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 applicant 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 applicant. Opposite party no. 2 is ready to withdraw the prosecution of the applicant and in view of the compromise, no fruitful purpose would be served if the prosecution is allowed to go on.

6. On the other hand, learned A.G.A. for the State has no objection to the above submissions.

7. 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."

8. 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."

9. The Apex Court in the case of **K. Dhandapani (supra)** and **Mafat Lal (Supra)** 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."

10. 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.

11. 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 paragraphs 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."

12. In another judgment of **Mahesh Mukund Patel vs. State of U.P. and Others, reported in 2025 SCC OnLine SC 614**, the Hon'ble Supreme Court quashed the proceedings of offence, punishable under Section 354A, 363, 366, 376 of the Indian Penal Code, 1860 and Section 3 and 4 of the Protection of Children from Sexual Offences Act on the ground of marriage between the accused and the victim. It was brought on record that from the wedlock between the accused and the victim, two children were born, whose documents were produced alongwith the appeal. The Apex Court in this case quashed the proceedings on the ground that no purpose would be served by continuing the prosecution as it would cause undue harassment to the appellant/accused and the victim and their children.

13. 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."

14. 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 applicant. In fact, the charges against the applicant stand impliedly withdrawn and abandoned, therefore, in order to secure ends of justice, the proceedings are liable to be quashed.

15. From perusal of the record, it is apparent that parties have entered into compromise and appear to have settled their real disputes amicably, which has also been verified by the trial court, copy of which report is on record. Thus, it further appears that the opposite party no. 2, who would be the key prosecution witness, if the trial were to proceed, have declared their unequivocal intent to turn hostile at the trial. In such circumstances, it is apparent that merits and truth apart, the proceedings in trial, if allowed to continue, may largely be a waste of precious time by the learned court below.

16. Considering the facts and circumstances of the case and the submissions advanced by learned counsel for the parties regarding the compromise entered into between the parties and taking all these factors into consideration cumulatively, the compromise between parties be accepted and further taking into account the legal position as laid down by the Apex Court in the aforementioned cases, the entire proceedings of the aforesaid case is hereby quashed.

17. In view of the aforesaid, the charge sheet dated 27.11.2024 and cognizance/ summoning order dated 18.01.2025 as well as entire proceeding of S.T. No.1587 of 2025 (State Vs. Sani), arising out of Case Crime No.331 of 2024, under Sections 406, 420, 376 I.P.C., Police Station Rasoolpur, District Firozabad, pending in the court of A.D.J./ F.T.C. Ist Firozabad, are hereby quashed against the applicant.

18. Accordingly, the application stands **allowed**.

(Vivek Kumar Singh,J.)

March 31, 2026

Radhika