



HIGH COURT OF UTTARAKHAND AT NAINITAL

Criminal Misc Application No. 564 of 2024

With

Compounding Application No. 1 of 2025

Tajammul Hussain and Ors. Petitioners

Versus

State Of Uttarakhand and Others respondents

Presence:-

Mr. Shariq Khurshid, learned counsel for the petitioners/accused.

Mr. Deepak Bisht, learned Deputy A.G. for the State.

Mr. Prince Chauhan, learned counsel for respondent no.2 & 3.

Dated : 03.04.2025

Hon'ble Vivek Bharti Sharma, J.

This petition is filed by the petitioners/accused for quashing of the FIR dated 13.09.2021 and entire criminal proceedings arising out of Criminal Case No. 1347 of 2022 under Sections 307, 498A I.P.C. and under Section 3/4 of Dowry Prohibition Act as well as the entire proceedings of the above case *qua* the petitioners, on the basis of the compromise arrived at between the parties.

2. The matter is related to matrimonial discord between the parties. The petitioner no.1, 2 & 3 are the father-in-law, mother-in-law and husband of the respondent no.3.

3. Facts of the case as stated in the petition are that respondent no. 3 was married to petitioner



no. 3 in the year 2011 and since then the petitioners/accused used to make regular demands for dowry from respondent no.3 and kept beating her; that, respondent no.3 earlier made complaints against the petitioners several times in the concerned Police Station for which counselling had also taken place; that, on 11.09.2021, respondent no. 3/wife was brutally beaten by the petitioners after drinking alcohol and an attempt on her life was also made by the petitioners/accused by putting a *dupatta* around her neck due to which respondent no. 3 has suffered serious injuries on her body and a very deep head injury; that, respondent no. 3 had lost a lot of blood due to the head injury and she also has marks of injury on her body from being beaten by sticks; that, thereafter, the respondent no.2 brother of the respondent no.3/victim lodged an F.I.R. on 13.09.2021 against the petitioners/accused under Sections 307, 498A, 325 I.P.C. and under Section 3/4 of Dowry Prohibition Act; that, after completion of investigation, the Investigating Officer has submitted charge-sheet against the petitioners/accused; that, the learned Judicial Magistrate, Jaspur, District Udham Singh Nagar took cognizance against the petitioners/accused and issued summoning order against the petitioners/accused. Hence, this petition.

4. Learned counsel for the petitioners/accused would submit that the parties have amicably settled the dispute and now the petitioner no.3/husband and respondent no.3/wife are living happily with



each other and the respondent no.3/wife does not want to prosecute the petitioners/accused further, therefore, a joint compounding application (*IA 1 of 2024*) has been filed by the parties to compound the alleged offences with the prayer that the entire proceedings of the criminal case be quashed as continuation of the criminal proceedings would be a futile exercise.

5. *Per contra*, learned State counsel would vehemently oppose the submission made by counsel for the petitioners/accused on the ground that the offences alleged against the petitioners/accused are non-compoundable in view of Section 359 of B.N.S.S.; that, the allegations leveled against the petitioners/accused are very serious; that, the offences are not private and have a serious impact upon the society.

In support of his submission, learned State counsel relied upon the judgment of *Daxaben Vs. The State of Gujarat and others 2022 SCC OnLine SC 936*, wherein the Hon'ble Apex Court has held that the criminal proceedings cannot be quashed in the category of serious offences, which are to be treated as crime against society and not against the individual alone, only for the reasons that a settlement has been arrived at between the parties, therefore, the petitioners/accused are not entitled for



any relief by this Court.

7. Perused the record in view of the submissions made by counsel for the parties.

8. The Hon'ble Supreme Court in plethora of judgments has held that though the power under Section 528 B.N.S.S. is wide, however, before exercising such power to quash criminal proceedings on the basis of compromise/settlement, the High Court has to be circumspect to the nature and gravity of the offence.

In the cases of '*Aparna Bhat & Others vs. State of Madhya Pradesh & Another*' in SLP No. 2531 of 2021, Hon'ble Supreme Court has held as under:

"(e) The courts while adjudicating cases involving gender related crimes, should not suggest or entertain any notions (or encourage any steps) towards compromises between the prosecutrix and the accused to get married, suggest or mandate mediation between the accused and the survivor, or any form of compromise as it is beyond their powers and jurisdiction;"

9. In view of the above, this is not a fit case where the power u/s 482 Cr.P.C. should be exercised. Accordingly, the compounding application as well as C-528 petition is dismissed *in limine*.

(Vivek Bharti Sharma, J.)

03.04.2025

Mamta



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