

SL. No.	Date	Office Notes, reports, orders or proceedings or directions and Registrar's order with Signatures	COURT'S OR JUDGE'S ORDERS
			<u>UKHC010017012019</u> <u>C482/194/2019</u> Rishi Nanda --Applicant Versus State Of Uttarakhand --Respondent <u>Hon'ble Siddhartha Sah, J.</u> Mr. Shailendra Nauriyal, learned counsel for the applicant. Mr. Chitrarth Kandpal, learned Brief Holder for the State. Mr. Aditya Pratap Singh, learned counsel for the respondent no.2. 2. By means of the present Criminal Miscellaneous Application under Section 482 of the Cr.P.C., the applicant has sought quashing of the entire proceedings of Criminal Case No. 4557 of 2016, 'State vs. Rishi Nanda', under Sections 498A, 323, 504 IPC and Section 3/4 of the Dowry Prohibition Act, 1961, pending in the court of Judicial Magistrate II, Dehradun. 3. The facts of the case necessary for the adjudication of the present Criminal Miscellaneous Application under Section 482 of Cr.P.C. are being narrated hereunder: The FIR was lodged on 16.06.2016 by

		the complainant/respondent no. 2, against the applicant and two other persons, namely her mother-in-law and brother-in-law, at Reporting Police Chowki Kharkahri, P.S. Kotwali Nagar, District Haridwar, under Sections 498A, 323, 504, 506 IPC and Section 3/4 of the Dowry Prohibition Act. The FIR was lodged on directions under Section 156(3) Cr.P.C. from the court concerned. After investigation, charge-sheet was filed by the police against the applicant, and cognizance was taken by the learned Magistrate under Sections 498A, 323, 504 IPC and Section 3/4 of the Dowry Prohibition Act on the basis of the charge-sheet and the applicant was summoned by the Magistrate to face trial under the aforesaid sections. 4. During the pendency of the Criminal Case No.4557 of 2016, the parties entered into a compromise and the matter was resolved amicably out of court before the parents of the parties on 24.11.2017. In terms of the compromise dated 24.11.2017, it was decided that Rs. 5.00 lakh shall be paid to respondent no.2 by the applicant, and gifts and ornaments which were gifted at the time of marriage of the applicant and respondent no.2 were also handed over to respondent no.2 by the applicant. 5. Respondent no.2 accepted the terms
--	--	---

		and condition of the compromise. Consequently, she received drafts amounting to Rs. One Lakh, Cheque no.224419 of an amount of Rs.2,50,000/- was also handed over to respondent no.2. 6. Respondent number 2 was also agreeable to the terms and condition no.4 of the compromise dated 24.11.2017, in which it was specifically stated that she will withdraw all the complaints and cases filed against the applicant, and they decided to live separately from each other. 7. Thereafter, respondent no.2 and applicant jointly presented original suit under Section 13B of the Hindu Marriage Act for dissolution of the marriage, and on 06.10.2018, the Family Court granted decree of divorce on the mutual divorce of the parties. 8. It is further stated that the applicant had given the cheque no.224419 to the respondent no.2, but the same was dishonoured due to a difference in signature. The applicant had no intention to cheat the respondent no.2. 9. Now, the learned counsel for respondent no.2 states that the said amount of Rs.2,50,000/- has been received by respondent no.2 on 06.08.2026 through RTGS, in the account of father, and now she does not want to prosecute the applicant
--	--	---

			further in the aforesaid Criminal Case No. 4557 of 2016. 10. In the peculiar facts and circumstances of the case, where the marriage of the applicant and respondent no.2 has already been dissolved by a decree of mutual divorce under Section 13B of the Hindu Marriage Act, and the amount as agreed between the parties has been fully paid by the applicant to respondent no.2, as has been admitted by the learned counsel for the applicant today, therefore, it would be a futile exercise to let the matter go to trial. 11. Learned Brief Holder counsel for the State has also submitted that since it is a matrimonial dispute, letting the matter go for trial certainly would be a fruitless exercise. 12. It is also pertinent to mention that in the case of B.S. Joshi vs. State of Haryana, reported in (2003) 4 Supreme Court Cases 675, in paragraph 10, the Hon'ble Supreme Court has held as hereunder: <i>“10. In State of Karnataka v. L. Muniswamy [(1977) 2 SCC 699 : 1977 SCC (Cri) 404] considering the scope of inherent power of quashing under Section 482, this Court held that in the exercise of this wholesome power, the High Court is entitled to quash proceedings if it comes to the conclusion that the ends of justice so require. It was observed that in a criminal case, the veiled object behind a lame prosecution, the very nature of the material on which the structure of the prosecution rests and the like would justify the High Court in quashing the proceeding in the interest of justice and that the ends of justice are higher than the ends of mere law though justice had got to be administered</i>
--	--	--	---

		according to laws made by the legislature. This Court said that the compelling necessity for making these observations is that without a proper realization of the object and purpose of the provision which seeks to save the inherent powers of the High Court to do justice between the State and its subjects, it would be impossible to appreciate the width and contours of that salient jurisdiction. On facts, it was also noticed that there was no reasonable likelihood of the accused being convicted of the offence. What would happen to the trial of the case where the wife does not support the imputations made in the FIR of the type in question. As earlier noticed, now she has filed an affidavit that the FIR was registered at her instance due to temperamental differences and implied imputations. There may be many reasons for not supporting the imputations. It may be either for the reason that she has resolved disputes with her husband and his other family members and as a result thereof she has again started living with her husband with whom she earlier had differences or she has willingly parted company and is living happily on her own or has married someone else on the earlier marriage having been dissolved by divorce on consent of parties or fails to support the prosecution on some other similar grounds. In such eventuality, there would almost be no chance of conviction. Would it then be proper to decline to exercise power of quashing on the ground that it would be permitting the parties to compound non-compoundable offences? The answer clearly has to be in the "negative". It would, however, be a different matter if the High Court on facts declines the prayer for quashing for any valid reasons including lack of bona fides." 13. Since the parties have already settled all their disputes, and whatever amount was remaining to be paid to respondent no.2 by the applicant now stands paid, and the respondent no.2 in the mutual settlement had also agreed that all the criminal proceedings would be withdrawn, hence, in the interest of justice, the entire proceedings of the criminal case need to be quashed, and also in view of the judgment of the Hon'ble Supreme Court in the case of B.S. Joshi vs.
--	--	--

			State of Haryana (Supra), further continuation of the criminal proceedings would be an abuse of process of law. 14. Thus, the Criminal Miscellaneous Application deserves to be allowed. The entire proceedings of Criminal Case No. 4557 of 2016, ‘State vs. Rishi Nanda’, under Sections 498A, 323, 504 IPC and Section 3/4 of the Dowry Prohibition Act, 1961, pending in the court of Judicial Magistrate II, Dehradun are quashed. (Siddhartha Sah, J.) 14-08-2026 JKJ/
--	--	--	---