

**HIGH COURT OF UTTARAKHAND AT NAINITAL****Criminal Misc. Application U/s 482 No. 2487 of 2023****16th July, 2026**

Mayank Malhotra
2: Santosh (deceased)
3: Tripta
4: Ms. Annu Chawla

--Applicants

Versus

State Of Uttarakhand
2: Kamakshi Soni Malhotra

--Respondents

Presence:-

Ms. Soniya Chawla, Advocate for the applicants.
Mr. G.S. Sandhu, Additional Advocate General assisted by Mr.
Deepak Bisht, Brief Holder for the State.
Mr. Vikas Bahuguna, learned Amicus Curiae for respondent no.2.

By means of the present criminal miscellaneous application under Section 482 Cr.P.C., the applicants have sought to quash the proceedings of Criminal Case No. 2103 of 2018 and further be pleased to set aside the summoning/cognizance order dated 17/04/2018 along with all consequential orders.

2. The facts in brief of the case as stated in the criminal miscellaneous application are as follows:-

“(i) The marriage of the applicant no.1 and the respondent no.2 was solemnized on 09.06.2014 at Blessing Farm, Pathri Bagh, Dehradun, according to Hindu Rites and ceremonies.



(ii) Out of the marriage, one baby boy namely Agrim was born on 03.03.2015, who is in the custody of the opposite party no.2.

(iii) From the very beginning differences arose between the parties and they could not adjust with each other in spite of their best efforts, though the marriage of the parties continued with all thick and thin and they tried to cope up with each; during this push and pull they gave birth to their child, the common friends and parents did their level best to get the difference of the applicant no.1 and the opposite party no.2, but the differences could not be resolved.

(iv) The parties to the petition have been living separately since 02.02.2017 and they are not been able to live together as husband and wife thereafter.

(v) Thereafter, the opposite party no. 2 lodged one complaint resulting into FIR which was registered as FIR No. 153/2017 u/s 498 A, 504 IPC and 3/4 Dowry Prohibition Act at Police Station Cantt, District-Dehradun.

(vi) The investigation officer filed the charge sheet no. 24 of 2018 dated 27.02.2018 U/s 498-A, & 504 of IPC and 3/4 of the Dowry Prohibition Act, against the present applicants before the learned trial court.”

(vii) On the basis of the charge-sheet, the learned IVth Additional Chief Judicial Magistrate, Dehradun, summoned the present applicant to face the trial under Sections 498-A, 504 of IPC & 3/4 of the Dowry Prohibition Act vide summoning/cognizance order dated 17.04.2018.

3. Assailing the proceedings of Criminal Case No.2103 of 2018, State vs. Mayank Malhotra and others,



and the summoning/cognizance order dated 17.04.2018 and the consequential orders, learned counsel for the applicants would submit that the applicant no.1 and the opposite party no.2 have dissolved their marriage through mutual consent under the Hindu Marriage Act bearing Case No. 286/2018 and vide judgment and order dated 05.10.2018, the petition under Section 13-B of the Hindu Marriage Act bearing Case No. 286/2018, Mayank Malhotra vs. Kamakshi Soni, was allowed by the Principal Judge, Family Court, Dehradun and the marriage between the parties dated 27.06.2012 has been dissolved by a decree of divorce.

4. It is submitted on behalf of the learned counsel for the applicants that since the applicant no.1 and opposite party no.2 have already filed and obtained the decree of divorce by mutual consent in the divorce petition filed under section 13 B (1) Hindu Marriage Act and have settled all their grievances amicably and nothing is left between the parties, hence the opposite party no.2 does not want to continue the proceedings emanating from the aforesaid FIR against the applicants.

5. It is submitted on behalf of the learned counsel for the applicants that the notices were issued to



respondent no.2, but the service report dated 02.05.2024 states that the notices sent to respondent no.2 by registered post as per the report of track consignment, notice has been delivered. It appears that in spite of notice of this case, the respondent no.2 is not appearing to contest the matter.

6. In such view of the matter, vide order dated 10.07.2026, this Court requested Mr. Vikas Bahuguna, Advocate to assist the Court as Amicus Curiae on behalf of respondent no.2 to which he had kindly consented for appearing on behalf of respondent no.2.

7. It is further submitted on behalf of the learned counsel for the applicants that if the proceedings of the criminal case are allowed to continue, the same shall be a futile exercise and under the facts and circumstances of the case, in the interest of justice, the entire proceedings of Criminal Case No.2103 of 2018 be quashed so as to enable the parties to lead a peaceful life in future.

8. The counsel for the applicants would rely upon a judgment of this Court rendered in criminal misc. case No. 478 of 2023, Anurag Mani Tiwari vs. State of Uttarakhand and another, wherein, in similar



circumstances, the court has been pleased to quash the summoning order and the charge-sheet, wherein the marriage between the parties has been dissolved under Section 13-B of the Hindu Marriage Act. The relevant portion of the said order dated 11.06.2026 is being extracted hereunder:-

“9. Learned counsel for the applicant has further drawn the attention of the Court to a judgment and order dated 07.10.2023, passed by the Additional Principal Judge, Family Court, Kanpur Nagar, whereby the petition under Section 13B of the Hindu Marriage Act, 1955 has been decreed and the marriage between the parties has been dissolved. By making reference to the aforesaid order dated 07.10.2023, the learned counsel for the applicant would make a submission that nothing now remains in as much as the marriage between the parties has been dissolved by decree of mutual consent.

10. In support of his contentions, the learned counsel for the applicant has relied upon the judgment of the Hon’ble Supreme Court in the case of **B.S. Joshi and Others VS. State of Haryana and Another**, reported in **(2003) 4 SCC 675** and drawn the attention of the Court in para 10 thereof. Para no. 10 is being extracted for ready reference :-

“10. In *State of Karnataka v. L. Muniswamy & Ors.* (1977) 2 SCC 699], 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 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 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 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. Answer clearly has to be in “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.”

11. It is also clear from the aforesaid judgment in the case of **B.S. Joshi and Others (Supra)** that the Hon’ble Supreme Court having noticed that there has been an outburst of matrimonial dispute in the recent time and has also considered that if marriage having been dissolved by divorce on consent of parties or the complainant fails to support the prosecution case on some other similar grounds and when there would almost be no chance of conviction, it would not be proper to decline to exercise power of quashing on the ground that it would be permitting the parties to compound noncompoundable offence. In such view, the Hon’ble Supreme Court proceeded to quash the FIR.

12. Mr. Vikash Uniyal, learned Brief Holder for the State would submit that now since the applicant and the respondent no.2 are separated, there will be no fruitful purpose in letting the matter to go for trial.

13. Learned counsel for the respondent no.2 would also make a similar submission that since the applicant and the respondent no.2 have already separated by virtue of



mutual decree of dissolution of marriage, hence there would be no useful purpose in letting the matter to go for trial and as such, he has no objection to the quashing of the entire criminal proceedings.

14. In view of the aforesaid facts and circumstances of the case and particularly in view of the fact that the marriage between the applicant and the respondent no.2 has already been dissolved under Section 13B of the Hindu Marriage Act, 1955 and also in view of the judgment of Hon'ble Supreme Court in **B.S. Joshi and Another (Supra)**, there will be no useful purpose in letting the matter to go for trial, hence, the instant Criminal Misc. Application under Section 482 Cr.P.C. deserves to be allowed.

15. Accordingly, the instant Criminal Misc. Application under Section 482 of the Cr.P.C. is hereby allowed and the charge-sheet as well as the summoning order dated 02.03.2022, passed by learned Additional Chief Judicial Magistrate / IIIrd Additional Civil Judge (S.D.), Rudrapur, District Udham Singh Nagar in Criminal Case No. 1730 of 2022 are hereby quashed."

9. Learned amicus curiae for the respondent no.2 does not deny the said position of law, as being submitted on behalf of the learned counsel for the applicants. Learned amicus curiae further submits that the position of law as has been submitted on behalf of the learned counsel for the applicants is correct and in such circumstances of the case, wherein, the respondent no.2, the wife, after getting a mutual divorce decree, is not participating in the proceedings, the criminal proceedings can be quashed.

10. Learned Additional Advocate General-Mr. G.S. Sandhu would also not deny the said position of law.



11. In such view of the matter, since the marriage of the applicant and respondent no.2 has already been dissolved by decree of mutual consent, hence, there will be no useful purpose in letting the matter to go into trial.

12. In view of the aforesaid facts and circumstances of the case and in view of the judgment of the Hon'ble Supreme Court in the case of ***B.S. Joshi and others vs. State of Haryana and another*** reported in ***(2003) 4 SCC 675*** and also, the judgment of this court rendered in Criminal Miscellaneous application No.478 of 2023, Anurag Mani Tiwari vs. State of Uttarakhand and another, the present Criminal Miscellaneous Application deserves to be allowed.

13. Thus the entire proceedings of Criminal Case No.2103 of 2018, State vs. Mayank Malhotra and others, pending in the court of the IVth Additional Chief Judicial Magistrate, Dehradun and the summoning/cognizance order dated 17.04.2018 are hereby quashed.

14. The Criminal Miscellaneous Application is, accordingly, allowed.

15. All pending applications, if any, stand disposed of accordingly.

(Siddhartha Sah, J.)

16th July, 2026

Nahid/Ravi