2025:UHC:6580

# IN THE HIGH COURT OF UTTARAKHAND

# AT NAINITAL

## CRIMINAL MISC. APPLICATION No. 1235 of 2025

Sunil Kumar and Others .....Applicants

Versus

State of Uttarakhand and Another …..Respondents

**Presence**:

Mr. N. S. Bisht, learned counsel for the Applicants.

Mr. Girish Chandra Joshi, learned A.G.A. for the State and Mr. Yogesh Upadhyay, learned counsel for the Respondent No. 2

**Hon'ble Ashish Naithani, J.**

1. This Criminal Miscellaneous Application under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, has been filed by the applicants seeking quashing of the charge-sheet dated 26.06.2021, the cognizance order dated 07.07.2021, and the entire proceedings of Sessions Trial No. 105 of 2021, titled *State vs. Sunil & Others*, for offences under Sections 376, 323, and 506 of the Indian Penal Code, 1860, pending before the Court of learned Additional Sessions Judge/F.T.S.C., Rudrapur, District Udham Singh Nagar.
2. The application is accompanied by a joint compromise application, stating that the matter between the applicants and Respondent No. 2 has been amicably settled, and no grievance survives between the parties.

3. The case arises from an FIR lodged on 18.05.2021 by Respondent No. 2 at P.S. Kichha, District Udham Singh Nagar, registered as Case Crime No. 163 of 2021, under Sections 376, 323, and 506 IPC, wherein allegations were made that Applicant No. 1 (Sunil Kumar), a neighbour of the complainant, established physical relations with her on the promise of marriage starting from July 2020.
4. It was further alleged that when the complainant confronted Sunil Kumar and his family members on 13.05.2021 regarding his refusal to solemnize marriage, she was assaulted by his mother (Applicant No. 3), his brother (Applicant No. 2), along with other relatives, causing injuries. The complainant was also threatened with dire consequences in case she approached the authorities.
5. Following the investigation, the police submitted a charge-sheet dated 26.06.2021 against Applicant No. 1 for offences under Sections 376, 323, and 506 IPC, and against Applicants No. 2 and 3 for offences under Sections 323 and 506 IPC.
6. On 07.07.2021, the learned Additional Chief Judicial Magistrate, Kichha, took cognizance and summoned the applicants for trial. The matter was thereafter committed to the Sessions Court, where charges were framed, and the trial commenced.
7. Applicant No. 1 was arrested during the course of investigation but was later granted bail by this Court vide order dated 13.08.2021 in Bail Application No. 1693 of 2021.
8. During the pendency of the trial, the applicants and Respondent No. 2 amicably resolved their differences. It is brought on record that Applicant No. 1 and Respondent No. 2 have solemnized their marriage and are now living together as husband and wife. Copies of their marriage certificate and Respondent No. 2’s deposition as PW-1 (where she admitted the

consensual nature of their relationship) have been annexed to the application.

9. Respondent No. 2, who is present before this Court and identified by her counsel, has categorically stated that she does not wish to prosecute the matter further and has no objection to the quashing of the proceedings.

10. Heard learned counsel for the parties and perused the records.

11. Learned counsel for the applicants submitted that the dispute is essentially private in nature, arising out of a relationship between Applicant No. 1 and Respondent No. 2, which has now culminated in their marriage. Counsel contends that continuing the criminal proceedings would serve no useful purpose and would only cause undue hardship to the parties.

12. Learned counsel for Respondent No. 2 corroborates this position and submits that in light of the settlement and the present marital relationship between the parties, the continuation of the criminal trial would adversely affect their peace and family life.

13. Learned A.G.A. opposes the quashing to the extent of Section 376 IPC, pointing out that it is a non-compoundable offence and affects public interest. However, he leaves it to the discretion of this Court to consider the peculiar facts and circumstances.

14. The Hon'ble Supreme Court in *Gian Singh vs. State of Punjab* (2012) 10 SCC 303 has held that while the powers under Section 482 CrPC (corresponding to Section 528 BNSS) to quash criminal proceedings on the basis of settlement are wide, they are to be exercised cautiously, particularly in cases involving serious offences like sexual assault.

15. In the present case, Respondent No. 2 is now the legally wedded wife of Applicant No. 1. Her statement recorded in Court as PW-1 acknowledges the consensual nature of their relationship. She has voluntarily chosen not to pursue the matter, and the State has not shown

how the continuation of the proceedings would serve any larger public interest.

16. This Court finds that the dispute between the parties is essentially personal, and their amicable settlement warrants interference to secure the ends of justice. The continuance of the criminal trial would serve no useful purpose and would only prolong their hardship.

**ORDER**

In view of the above discussion and considering the settlement between the parties, this Court finds it to be a fit case to invoke its powers under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, to prevent abuse of process and to secure the ends of justice.

Accordingly, the Compounding Application stands allowed, the charge-sheet dated 26.06.2021, the cognizance order dated 07.07.2021, and the entire proceedings of Sessions Trial No. 105 of 2021, *State vs. Sunil & Others*, pending before the learned Additional Sessions Judge/F.T.S.C., Rudrapur, District Udham Singh Nagar, are hereby **quashed** qua the present applicants.

The Criminal Miscellaneous Application is disposed of in the above terms.

**Ashish Naithani, J.**

Dated: 25.07.2025

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