

**(2010) 12 AHC CK 0120**

**Allahabad High Court**

**Case No:** Criminal Miscellaneous Application No. 31156 of 2010

Kulwant Singh and others

APPELLANT

Vs

State of U.P.and another

RESPONDENT

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**Date of Decision:** Dec. 6, 2010

**Acts Referred:**

- Criminal Procedure Code, 1973 (CrPC) - Section 482
- Dowry Prohibition Act, 1961 - Section 3, 4
- Penal Code, 1860 (IPC) - Section 323, 498A, 504, 506

**Hon'ble Judges:** S.C.Agarwal, J

**Final Decision:** Allowed

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**Judgement**

S.C. Agarwal, J.

Applicant no. 1 Kulwant Singh is present in person in Court and he is identified by his counsel Rajesh Kumar Gupta. Opposite party no. 2 is also present in person and she is identified by her counsel Sri Harikesh Kumar Gupta. Both the parties submitted that there has been a compromise between them and this application be disposed of in terms of compromise.

Counter affidavit filed on behalf of opposite party no. 2 is taken on record.

Heard Sri Rajesh Kumar Gupta, learned counsel for the applicant, learned AGA for the State as well as Sri Harikesh Kumar Gupta, learned counsel for opposite party no. 2.

This application under Section 482 Cr.P.C. has been filed with a prayer to quash the chargesheet no. 175 of 2008 arising out of case crime no. 764 of 2008, under Sections 498A, 323, 504, 506 IPC and D.P. Act, P.S. Puranpur, District Pilibhit, registered as criminal case no. 4544 of 2008 (State Vs. Kulwant Singh & others) pending in the Court of C.J.M. Pilibhit.

2. A matrimonial petition no. 151 of 2008 (Kulwant Singh Vs. Smt. Mandeep Kaur) between the applicant no. 1 Kulwant Singh and opposite party no. 2 Smt. Mandeep Kaur was pending in the Court of Civil Judge (Senior Division) Pilibhit. An application for transfer under Section 24 C.P.C. being transfer application no. 71 of 2010 was filed by opposite party no. 2 against applicant no. 1 wherein, by order dated 11th February, 2010, the matter was referred to Mediation Centre of this Court.

3. During mediation proceedings, parties came to terms and settlement agreement was executed on 9.9.2010 (Annexure No. 5).

Para 6 of the settlement agreement provides as under :

" The following settlement has been arrived at between the parties hereto :

a. That Smt. Mandeep Kaur Sanggha (Applicant wife) and Sri Kulwant Singh (Opposite party husband) were married on 21.9.2007. Due to strained relationship between husband and wife, they were living separately since 20.4.2008. They are issueless.

b. The strained relationship between husband and wife gave rise to several cases (a) Case No. 4544 of 2008, State Vs. Kulwant and others, for the offence u/s 498A, 323, 504, 506 IPC and D.P. Act, pending in the Court of Chief Judicial Magistrate,, Pilibhit and (b) matrimonial petition no. 151 of 2008 Kulwant Singh Vs. Mandeep Kaur u/s 9 of Hindu marriage Act, pending in the Court of Civil Judge, (SD), Pilibhit.

c. That both the parties have decided to separately/take mutual divorce on the condition of a permanent alimony amount of Rs. Two lacs sixty five thousand only being paid to Smt. Mandeep Kaur by Kulwant Singh.

d. That Sri Kulwant Singh has already paid Rs. 2.65 lacs on 26.8.2010 to Smt. Mandeep Kaur before this mediation centre through demand draft no. 866620 dated 20.8.2010 issued by State Bank of India, Gola Gokaran Nath branch, district Lakhimpur Kheri. The same has been received by Smt. Mandeep Kaur. After receiving the aforesaid amount, Smt. Mandeep Kaur will not be entitled to claim any kind of maintenance etc. from Sri Kulwant Singh, in future.

e. That in view of above noted agreement between the parties, both the parties agree that all civil and criminal case filed by them against each other including above noted cases, shall be treated to be withdrawn for all practical purposes from today itself. They have agreed that they will file proper application, if necessary, before the appropriate court for the same."

In para 10 of the counter affidavit, opposite party no. 2 stated as under :

"That it is relevant to state here that a compromise has been made between applicants and opposite party no. 2 on 9.9.2010 before Allahabad High Court Mediation and Conciliation Centre through settlement agreement on which the parties concerned has also made there signature which has already been annexed

as Annexure No. 5 to the present criminal misc. application hence it is such expedient in the interest of the justice that this Hon"ble Court graciously be pleased to pass the order which this Hon"ble court graciously may deem fit and proper under the facts and circumstances of the application otherwise the parties concerned shall suffer great irreparable loss and injury."

4. Learned counsel for the applicants submitted that it is a matrimonial dispute, which has been amicably settled between the parties and parties have decided to obtain a decree of divorce by mutual consent and a sum of Rs. 2.65 lacs has already been paid to opposite party no. 2 in lieu of her right of maintenance. It is also decided between the parties that civil and criminal cases filed against each other shall be treated to be withdrawn.

Learned counsel submitted that in view of these developments, the criminal proceedings be quashed as the parties have no grudge against each other and did not wish to proceed with the criminal cases filed by them.

5. Learned counsel for opposite party no. 2 admitted the terms of the settlement agreement and further admitted that opposite party no. 2 has received a sum of Rs. 2.65 lacs by bank draft and she does not wish to press the criminal case initiated by her and has no objection if the proceedings pending before the Magistrate be quashed.

The Apex Court in the case of "Madan Mohan Abbot v. State of Punjab" reported as (2008)4 SCC 582 emphasised in para No. 6 as follows :

"5. We need to emphasize that it is perhaps advisable that in disputes where the question involved is of a purely personal nature, the Court should ordinarily accept the terms of the compromise even in criminal proceedings as keeping the matter alive with no possibility of a result in favour of the prosecution is a luxury which the Courts, grossly overburdened as they are, cannot afford and that the time so saved can be utilised in deciding more effective and meaningful litigation. This is a common sense approach to the matter based on ground of realities and bereft of the technicalities of the law."

6. The present dispute between the parties is of purely personal nature and is a matrimonial dispute, which has been mutually and amicably settled by the parties with the intervention of Mediation and Reconciliation Centre of this Court. Having all the disputes between the parties set at rest, it would be futile to permit continuation of the criminal case pending against the applicants. As parties have come to terms, it would be a wastage of time of the Court, if the criminal proceeding pending against the applicant is permitted to reach its logical ends without any hope for a result in favour of the prosecution. In these circumstances the application deserves to be allowed.

The application is allowed. Impugned chargesheet as well as entire proceedings of the criminal case no. 4544 of 2008, State Vs. Kulwant Singh & others pending in the Court of C.J.M. Pilibhit are quashed.