



2025:UHC:4727

Judgment Reserved on: 13.05.2025
Judgment Delivered on: 10.06.2025

HIGH COURT OF UTTARAKHAND AT NAINITAL

C528 No.263 of 2025

Aman Malik

..... Petitioner

Vs.

State of Uttarakhand & Anr.

..... Respondents

Present:-

Ms. Sadaf Gaur, learned counsel for the petitioner.

Mr. Akshay Latwal, learned A.G.A. for the State.

Ms. Reema Rana, learned counsel for the respondent no.2.

Hon'ble Vivek Bharti Sharma, J.

This criminal misc. application is filed by the petitioner/accused under Section 528 of Bhartiya Nagarik Suraksha Sanhita (*for short, B.N.S.S.*) for quashing of charge-sheet dated 01.04.2024, cognizance/summoning order dated 02.04.2024 and the entire proceedings of Session Trial No.47 of 2024 "*State vs. Aman Malik @ Naved Ali*" for the offences punishable under Sections 328, 376, 506 of IPC and Section 3(1) & 5(1) of Uttarakhand Freedom of Religion Act, 2018, P.S. Mukhani, District Nainital pending in the court of learned 1st Additional Sessions Judge, Haldwani, District Nainital, on the basis of compromise arrived at between the parties.

2. Before proceeding to consider the merits of the compounding application, this Court deems it appropriate to set out the brief facts of the case, which are as follows:-



Criminal proceedings were initiated on the basis of an FIR No.25/2024 lodged by respondent no.2/complainant at P.S. Mukhani, District Nainital. As per the allegations made in the FIR, petitioner/accused befriended the respondent no.2/complainant by introducing himself as Aman, thereby concealing his true identity as a Muslim; that, thereafter, petitioner/accused invited respondent no.2/complainant at his residence on the occasion of *Janmashtami* celebration in his house and taking advantage of the fact that she was observing a fast on the occasion of *Janmashtami*, petitioner/accused gave her milk laced with some sedative; that, when she came under the influence of the sedative, petitioner/accused raped her and took her nude photographs; that, when she regained her senses petitioner/accused showed her nude photographs and videos and threatened her to make her nude photographs and videos viral and to remain in relationship with him; that, due to fear of defamation, respondent no.2/complainant initially succumbed to the threats of petitioner/accused, however, subsequently, a woman named Sonam Khan contacted the respondent no.2/complainant and informed her that petitioner/accused is her husband and advised her to stay away from him; that, on this respondent no.2/complainant questioned Sonam Khan, pointing out that she (Sonam Khan) is a Muslim and then how she could be in a relationship with the petitioner/accused, who had introduced himself to the respondent no.2/complainant as a Hindu; that, Sonam Khan then clarified to the respondent no.2/complainant that the petitioner/accused is, in fact, not a Hindu but a Muslim.



After completion of investigation, Charge-sheet was filed on 01.04.2024 whereupon cognizance was taken and summoning order dated 02.04.2024 was issued to the petitioner/accused.

3. Learned counsel for the petitioner/accused would submit that from the very inception of their acquaintance, respondent no.2/complainant was fully aware that the petitioner/accused belonged to the Muslim community and he never concealed his real identity. It is further submitted that both the parties reside in the same vicinity and the respondent no.2/complainant used to frequently visit the petitioner's residence.

4. She would further submit that respondent no.2/complainant has reconciled with the petitioner/accused and both parties have amicably resolved their differences; that, compromise has been arrived at between them and now the respondent no.2/complainant no longer wishes to pursue the criminal proceedings against the petitioner/accused. She would submit that an affidavit has been filed by respondent no.2/complainant wherein at paragraph no.6 she has specifically affirmed that she was well acquainted with the petitioner/accused and that from the very beginning of their friendship she was well aware that he is a Muslim and that the FIR was lodged due to a misunderstanding between them.

5. Learned counsel would further submit that in view of the amicable settlement between the



petitioner/accused and respondent no.2/complainant, proceedings of criminal case should be quashed as continuation of trial would be futile and sheer wastage of precious judicial time.

6. Per contra, learned State counsel would vehemently oppose the compounding application as well as the present petition filed under Section 528 of the B.N.S.S. and would submit that the allegations made in the FIR are of a very serious nature and fall within the category of heinous offences which should not be treated merely as offences against an individual but must be viewed as offences against society at large. Therefore, allowing such cases to be quashed on the basis of compromise would set a dangerous precedent and defeat the ends of justice.

7. He would further submit that the statement of respondent no.2/complainant has been recorded as in the trial court (*Annexure no.5 to the counter affidavit*) and in her examination-in-chief PW1/prosecutrix has fully supported the prosecution's case. She has reiterated her allegations in all material particulars, consistent with the statement recorded under Section 161 and 164 of Cr.P.C.

He would further submit that in the statement recorded u/s 164 of Cr.P.C. the prosecutrix had levelled serious allegations against other accused persons also against whom investigation is underway.

8. Learned State Counsel would cite a judgment of Hon'ble Supreme Court in re "***Daxaben v. State of Gujarat & Ors. (2022) 16 SCC 117***", wherein it has



been categorically held that in heinous offences, particularly those which shock the conscience of the society, criminal proceedings ought not to be quashed merely on the basis of a compromise between the accused and the complainant.

9. Considered the submissions of learned counsel for the parties and perused the entire material available on file.

10. It is an established principle of criminal jurisprudence, reiterated by the Hon'ble Supreme Court in "***State of Madhya Pradesh v. Laxmi Narayan (2019) 5 SCC 688***" and "***Gian Singh v. State of Punjab (2012) 10 SCC 303***" that while the High Court possesses inherent power under Section 482 Cr.P.C. (*now Section 528 of B.N.S.S.*) to quash criminal proceedings in the interest of justice, such power must be exercised with caution and should not be invoked in cases involving heinous and serious offences, particularly offences against dignity of women such as rape.

11. In order to apply the ratio laid down in the above judgments in the light of facts and circumstances of the present case, it is necessary to go through the statements of prosecutrix recorded u/s 164 of Cr.P.C. as well as the testimony given by her in the trial Court.

12. In her statement recorded u/s 164 of Cr.P.C. before the Magistrate, the prosecutrix stated that "*...petitioner/accused met her in September-October and asked her to enter into relationship with him; that, she*



entered into relationship with him; that, initially petitioner/accused did not tell her his full name, he only told Aman. On the night of Janamastmi, petitioner/accused said that they are gathering at his house for a night out and that she should also come. She went to his house where petitioner/accused was alone. She asked about other friends. He said they must be coming. Petitioner/accused brought milk for her because she was fasting that day. As soon as she drank the milk she started feeling dizzy, then his friends came. She was feeling dizzy, so she told his friends to go out. They were smoking so when she started going out, petitioner/accused stopped her and asked her to sleep there. She fell asleep. When she woke up in the morning petitioner/accused showed her photos and videos on his phone and said that the four of us have done this with her. In the video, all four of them were getting physical with her. She stated that all of them raped her. She told petitioner/accused that he cannot do this to her and when she started leaving from there, he slapped her and said that if you leave him, he will show these photos and videos to everyone in the house and will make them viral. After that, out of fear, she continued in a relationship with Aman....”

13. In her testimony recorded in the trial court, the prosecutrix deposed that “... In August 2023, she met petitioner/accused through common friends. In September, 2023, on the day of Janamastmi petitioner/accused called her and invited her for a party and told that his other friends will also come. On the night of Janmashtami, prosecutrix went to the house of



petitioner/accused but his friends were not there. On being asked, petitioner/accused told her that other friends must be coming. She had kept fast. Petitioner/accused brought milk for her. She drank that milk and became unconscious. Perhaps milk was laced with some sedative. Next day when she regained her senses, petitioner/accused showed her nude photographs on his mobile and threatened her to be in relationship with him and that otherwise he would viral the pictures. Due to threat and defamation, she started going to his room where he forcibly raped her several times after giving her sedatives.

That, a girl named Sonam called the prosecutrix and told that petitioner/accused is her boyfriend. Prosecutrix asked her that she is Muslim then how petitioner/accused can be her boyfriend on which Sonam told the prosecutrix that petitioner/accused is a Muslim. She got shocked to hear this because petitioner/accused had told her that he is a Hindu and his mother's name is Usha Devi and his father has died; that, when she went to petitioner/accused's to clarify the things, he forcibly made her wear a burkha and told his name as Naved Ali and said that soon he will marry her and make her Muslim and that if she do not agree then he will post her nude photos and videos on social platform and will kill her family. She was raped by the petitioner/accused and he tried to convert her religion....”

14. Having gone through the above statements, this Court is of the considered view that respondent no.2/complainant has made clear, detailed and serious allegations of rape, blackmailing, and religious



misrepresentation. Moreover, the allegations also include gang rape, as evident from her statement Section 164 Cr.P.C. statement, which remains uncontroverted at this stage of proceedings. However, it has been informed that investigation is pending against co-accused persons.

15. On 22.04.2025, this Court after having noted serious objection of the State Counsel to the Compounding Application had directed the S.S.P., Nainital to look into all aspects and provide protection to all the witnesses from any kind of threat, coercion or influence and to submit compliance report. Pursuant to said order, S.S.P. Nainital has filed his report thereby enclosing the applications of witnesses including the prosecutrix which indicates that the prosecutrix and other witnesses have refused to receive any kind of police protection and that they have no threat from the side of accused.

16. Although the prosecutrix has stated that she entered into a compromise with the petitioner voluntarily and has not sought police protection but the possibility of coercion, intimidation, or undue influence cannot be ruled out, particularly when she has given statement on oath before the trial court accusing the petitioner. A compromise executed after such testimony raises serious doubts about its genuineness and undermines its legal sanctity. The compromise appears to have been entered into only after the prosecutrix had already deposed under oath, confirming the commission of a grave offence under Section 376 IPC. Moreover, the offence punishable under Section 376 IPC is non-compoundable and cannot be



quashed merely on the basis of a settlement or compromise between the victim and the accused, especially where the facts reveal conduct that shocks the conscience of the Court and the society at large.

17. In view of the foregoing discussion and having regard to the gravity and seriousness of allegations, the stage of the trial, and the consistent and credible statements of the prosecutrix, this Court is of the firm opinion that the Compounding Application as well as the present petition is wholly misconceived and devoid of merit. Accordingly, the same are hereby dismissed. The Trial Court is directed to proceed with the matter and conclude the trial on its merits, after thoroughly examining all aspects of the case.

18. Let a copy of this judgment be sent to the trial court for information.

(Vivek Bharti Sharma, J.)

10.06.2025

Rajni