

**(2011) 04 UK CK 0026**

**In the Uttarakhand High Court**

**Case No :** Criminal Miscellaneous Application C-482 No. 335 of 2010

Harmeet Singh and Another

APPELLANT

Vs

State of Uttarakhand and Another

RESPONDENT

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**Date of Decision :** 22-04-2011

**Acts Referred:**

Criminal Procedure Code, 1973 (CrPC) — Section 320, 482  
Dowry Prohibition Act, 1961 — Section 3, 4  
Hindu Marriage Act, 1955 — Section 13B  
Penal Code, 1860 (IPC) — Section 323, 406, 498A, 504, 506

**Citation :** (2011) 2 DMC 541

**Hon'ble Judges :** V.K. Bist, J

**Bench :** Single Bench

**Final Decision :** Allowed

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**Judgement**

V.K. Bist, J.—These petitions, moved u/s 482 of Code of Criminal Procedure, 1973 (for short Cr.P.C., have been filed by the petitioners seeking quashing of the proceedings of criminal case No. 283 of 2010, State v. Vijay Singh Dhaliwal and Others, relating to offences punishable under Sections 498-A, 323, 504, 506, 406 of Indian Penal Code, 1860 (for brevity I.P.C.) and u/s 3/4, Dowry Prohibition Act, 1961, Police Station Rudrapur, District Udham Singh Nagar, pending before Chief Judicial Magistrate, Udham Singh Nagar,

2. Brief fact giving rise to the instant petitions are that the daughter of respondent No. 2, namely, Shailly got married on 11.12.2003 with Vijay Singh Dhaliwal (petitioner in C-482 No. 357/2011) according to Hindu rituals. However, the applicant/petitioners, right from the marriage, were not satisfied with the dowry given in the marriage and started harassing Smt. Shailly. On the passage of time differences arose between the couple, which resulted into the lodging of First Information Report dated 16.10.2009 against the petitioners for the offence punishable under Sections 498-A, 323, 504, 506, 406, I.P.C. and u/s 3/4, Dowry Prohibition Act. The matter was investigated by the Police and charge-sheet was submitted against all the petitioners. On submission of the charge-sheet, the

learned Magistrate concerned appears to have taken cognizance in the matter vide order dated 21.1.2010. After taking cognizance, the proceeding of the Trial Court was challenged in C-482 No. 335/ 2010 by the father-in-law and mother-in-law of the daughter of respondent No. 2 and this Court vide order dated 22.4.2010 interfered into the matter and stayed the proceedings only in respect of the father-in law and mother-in-law of the daughter of respondent No. 2. During the pendency of the criminal case No. 283/2010 before the Trial Court, it appears that, both the parties settled their dispute amicably outside the Court and they entered into a compromise (contained as Annexure No. 2 to the compounding application No. 378/2011 in C-482 petition No. 335/2010). Thereafter, Vijay Singh Dhaliwal (petitioner in C-482 No. 357/2011), on the basis of said compromise, got filed Petition No. C-482, No. 357/2011, annexing therewith compromise deed and compounding application (contained as Annexure No. 5 to the petition). This application is accompanied by two affidavits, which have been signed by the applicant No. 1 Harmeet Singh and opposite party No. 2-Narendra Kumar Narula (complainant);

3. In the compromise deed, it is mentioned that the daughter of respondent No. 2, namely, Smt. Shailly and her husband Vijay Singh Dhaliwal have moved petition u/s 13-B of the Hindu Marriage Act before Principal Judge, Family Court, Udhham Singh Nagar, which is pending consideration. For getting mutual decree of divorce, the husband i.e. Vijay Singh Dhaliwal has paid full and final alimony, as agreed between the parties, to the tune of Rs. 4,50,000 in the name of Smt. Shailly, through Demand Draft No. 141473 dated 28.10.2010 amounting to Rs. 1,50,000, Demand Draft No. 141271 dated 28.10.2010 amounting to Rs. 2,00,000 payable at Punjab National Bank, Rudrapur and Demand Draft No. 029704 dated 29.10.2010 amounting to Rs. 1,00,000 payable at Central Bank of India, Rudrapur, Udhham Singh Nagar. Photocopies of the said Demand Drafts are annexed as Annexure No. 4 to C-482 No. 357/2011. According to compromise deed, Smt. Shailly has accepted the full and final alimony by way of above noted drafts and she will not claim any further compensation. It is also agreed between the contestant parties that all the pending cases between them, shall be withdrawn. It is mentioned in the compromise deed that now on the basis of the terms and conditions mentioned in the compromise deed, the complainant's party does not intend to prosecute the petitioners in the Criminal Case No. 283 of 2010 "State v. Vijay Singh Dhaliwal and Others", for the offence punishable under Sections 498-A, 323,504,406, IPC and under Sections 3/4 of the Dowry Prohibition Act relating to Police Station, Rudrapur, District Udhham Singh Nagar. It is prayed in the compounding applications that on the basis of said compromise deed, the offences alleged against the petitioners may be compounded, as the complainant has no objection.

4. Today Smt. Shailly (daughter of complainant), Shri Narendra Kumar Narula (complainant), petitioners-Harmeet Singh, Smt. Charan Jeet Singh (father-in-law and mother-in-law of Smt. Shailly) and Vijay Singh Dhaliwal (husband of Smt. Shailly) are present before this Court and they have been identified by their

respective Counsel. The Court personally enquired from Smt. Shailly as to why she is not willing to live with her husband. She categorically stated that as the relations of the couple are strained, now there is no possibility to live together and she is unable to discharge her matrimonial duties. It was also stated that the parties have entered into compromise to resort their relationships.

5. This Court, on the basis of the said compromise, while exercising the power conferred u/s 482, Cr.P.C., has to see whether application u/s 320, Cr.P.C., in the facts and circumstances, can be considered, at this stage, or not? The matter is matrimonial in nature, which the parties have amicably settled out side the Court through compromise and continuation of criminal proceedings arising out of the same dispute, would be a futile exercise and now it is nothing but a gross misuse of process of law. Reliance has been placed on the judgment of Hon''ble Apex Court rendered in B.S. Joshi and Others Vs. State of Haryana and Another, , and the judgment rendered in the case of Nikhil Merchant Vs. Central Bureau of Investigation and Another, , whereby the Apex Court has held that where the compromise has taken place in between the parties and where there was almost no chance of conviction, it would be improper to decline to exercise power of quashing on the ground that it would be permitting the parties to compound non-compoundable offence and non-exercise of inherent power to quash the proceeding to meet the ends of justice would prevent women from settling earlier and that would be against the object of Section 498-A. Hence, the ratio of the judgments cited above, is fit and fully applicable in the case in hand. Therefore, the compounding applications moved on behalf of the parties, u/s 320, Cr.P.C., are allowed.

6. Keeping in view the fact and circumstances of the case and keeping in mind the law laid by the Hon''ble Court, this Court, in the interest of justice, is inclined to quash and set aside the criminal proceedings in Criminal Case No. 283 of 2010.

7. Accordingly, both the petitions are allowed. Proceedings of Criminal Case No. 283 of 2010, State v. Vijay Singh Dhaliwal and Others, relating to offences punishable u/s 498-A, 323, 504, 506, 406, I.P.C. and u/s 3/ 4, Dowry Prohibition Act, P.S. Rudrapur, pending before Chief Judicial Magistrate, Udham Singh Nagar is hereby quashed.

8. Let a certified copy of this judgment be placed in the connected petition.

9. Registry is directed to send a copy of this judgment to the Court concerned.