

THE HIGH COURT OF SIKKIM : GANGTOK
(Criminal Jurisdiction)

DATED : 28th November, 2025

SINGLE BENCH : THE HON'BLE MRS. JUSTICE MEENAKSHI MADAN RAI, JUDGE

Crl.M.C. No.05 of 2025

Petitioners : Deewas Rai and Another

versus

Respondent : State of Sikkim

Application under Section 528 of the
Bharatiya Nagarik Suraksha Sanhita, 2023

Appearance

Mr. Aditya Makkhim and Ms. Wupi Miwu, Advocates for the
Petitioners.

Mr. Sujan Sunwar, Assistant Public Prosecutor for the Respondent.

Date of Hearing : 28-11-2025
Date of Pronouncement : 28-11-2025
Date of Uploading : 28-11-2025

JUDGMENT (ORAL)

Meenakshi Madan Rai, J.

1. The Petitioners have filed an application under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter, the "BNSS"), seeking quashing of the FIR bearing No.38 of 2024, dated 02-04-2024, registered at the Sadar Police Station, Gangtok, against the Petitioner No.1, under Sections 498A/324/506 of the Indian Penal Code, 1860 (hereinafter, the "IPC") and the consequential proceedings in G.R. Case No.217 of 2024 (*State of Sikkim vs. Deewas Rai*) pending before the Court of the Chief Judicial Magistrate, Gangtok, Sikkim.

2. It is submitted by Learned Counsel for both the Petitioners that the FIR was lodged by Petitioner No.2 stating that on 26-03-2024 her husband Petitioner No.1 had assaulted her with

fist blows and a Coffee Maker and threatened to kill her by hanging her to death. She had also alleged that she had been continuously beaten up with articles like table, stick, chair, etc. On the basis of the FIR, on completion of investigation, G.R. Case came to be registered before the Court of the Chief Judicial Magistrate where the matter is now pending. That, now the Petitioners No.1 and 2 have resolved their disputes and are living together. In fact they have been together a few days after the above incident occurred. They have a minor daughter, who is aged about two and half years old. The Petitioner No.1 is taking care of both the Petitioner No.2 and the minor child. That, with the intervention of friends, family and well wishers the Petitioners resolved their differences hence the Petitioner No.2 does not seek to pursue the Criminal Case against the Petitioner No.1. That, the settlement has been arrived at by the Petitioner No.2 of her own accord and free will and without any coercion from any party whatsoever. She is also conscious of the fact that should the Petitioner No.1 be convicted then she and the child will have to bear far reaching consequences such a financial difficulties and lack of care. As they are now living a peaceful married life, the instant Petition has been filed.

3. *Per contra*, Learned Assistant Public Prosecutor submits that the offences committed by the Petitioner No.1 are non-compoundable offences and he has assaulted the victim Petitioner No.2 physically and also threatened to kill her on several occasions. In such circumstances, the prayers put forth by the Petitioner No.1 deserve no consideration and the Petition ought to be dismissed.

4. Having given due consideration to the competing submissions advanced, I am of the considered view that the matter

has been resolved between the Petitioners out of their own free will. The Petitioner No.2 admits that she is not under any coercion to compromise the matter. It was done on her own accord. They not only share the same roof but also have a minor child to take care of.

5. In ***Sushil Suri*** vs. ***Central Bureau of Investigation and Another***¹, while further examining the scope, ambit and extent of Section 482 of the Code of Criminal Procedure, 1973 (now Section 528 of the BNSS), the Supreme Court held as under;

"16. Section 482 CrPC itself envisages three circumstances under which the inherent jurisdiction may be exercised by the High Court, namely, (i) to give effect to an order under CrPC; (ii) to prevent an abuse of the process of court; and (iii) to otherwise secure the ends of justice. It is trite that although the power possessed by the High Court under the said provisions is very wide but it is not unbridled. It has to be exercised sparingly, carefully and cautiously, ex debito justitiae to do real and substantial justice for which alone the Court exists. Nevertheless, it is neither feasible nor desirable to lay down any inflexible rule which would govern the exercise of inherent jurisdiction of the Court. Yet, in numerous cases, this Court has laid down certain broad principles which may be borne in mind while exercising jurisdiction under Section 482 CrPC. Though it is emphasized that exercise of inherent powers would depend on the facts and circumstances of each case, but the common thread which runs through all the decisions on the subject is that the Court would be justified in invoking its inherent jurisdiction where the allegations made in the complaint or charge-sheet, as the case may be, taken at their face value and accepted in their entirety do not constitute the offence alleged."

(i) A larger Bench of Supreme Court in ***Gian Singh*** vs. ***State of Punjab and Another***², summed up the correct proposition of law in this respect as under;

"57. Quashing of offence or criminal proceedings on the ground of settlement between an offender and victim is not the same thing as compounding of offence. They are different and not interchangeable. Strictly speaking, the power of compounding of

¹ (2011) 5 SCC 708

² (2012) 10 SCC 303

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offences given to a court under Section 320 is materially different from the quashing of criminal proceedings by the High Court in exercise of its inherent jurisdiction. In compounding of offences, power of a criminal court is circumscribed by the provisions contained in Section 320 and the court is guided solely and squarely thereby while, on the other hand, the formation of opinion by the High Court for quashing a criminal offence or criminal proceeding or criminal complaint is guided by the material on record as to whether the ends of justice would justify such exercise of power although the ultimate consequence may be acquittal or dismissal of indictment.

58. Where the High Court quashes a criminal proceeding having regard to the fact that the dispute between the offender and the victim has been settled although the offences are not compoundable, it does so as in its opinion, continuation of criminal proceedings will be an exercise in futility and justice in the case demands that the dispute between the parties is put to an end and peace is restored; securing the ends of justice being the ultimate guiding factor.”

(ii) On the anvil of the principles enunciated hereinabove, despite the objection raised by the Prosecution, I am of the considered view that for a peaceful family life, this is a fit case where the Petition ought to be and is accordingly allowed.

6. Consequently, FIR bearing No.38 of 2024, dated 02-04-2024, registered before the Sadar Police Station Gangtok, under Sections 498A/324/506 of the IPC stands quashed.

7. The consequent proceedings being G.R. Case No.217 of 2024 (*State of Sikkim vs. Deewas Rai*) pending before the Court of the Chief Judicial Magistrate, Gangtok, Sikkim, also stands quashed.

8. Crl. M. C. No.05 of 2025 stands disposed of.

(Meenakshi Madan Rai)

Judge

28-11-2025

Approved for reporting : **Yes**

ds/sdl