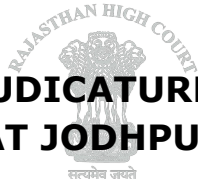


**HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JODHPUR**



S.B. Criminal Miscellaneous (Petition) No. 5322/2026

CNR: RJHC010634362026

URN: CRLMP / 9538U / 2026

Kailash Kharol S/o Shri Badrilal Kharol, Aged About 38 Years,
Resident Of Near Surbhi School, Paneriyon Ki Magri, Hiran Magri,
Udaipur Rajasthan.

----Petitioner

Versus

1. State Of Rajasthan, Through Pp
2. Smt Savita Kharol D/o Shri Karan Kharol, Aged About 34
Years, Resident Of Hanuman Colony, Fatehpura, Udaipur
Rajasthan

----Respondents

For Petitioner(s)	:	Mr. Abhishek Pareek
For Respondent(s)	:	Mr. Hanuman Prajapati, PP Mr. Abhimanyu Singh Rathore, for complainant

HON'BLE MR. JUSTICE BALJINDER SINGH SANDHU

Order

09/07/2026

The present criminal misc. petition under Section 528 of BNSS has been filed for quashing of criminal proceedings pending against the petitioner before the court of learned Additional Chief Judicial Magistrate No.2, Udaipur in Complaint Case No.125/2017 titled as "State Vs. Kailash Kharol", whereby the learned trial court vide order dated 14.8.2019 has attested the compromise under Section 406 IPC, however, refused to attest the compromise to the extent of offence under Section 498-A IPC, as being non-compoundable.

Learned counsel for the petitioner submits that compromise has been arrived at between the parties and the matter has been settled amicably.

Learned counsel for the respondent No.2 does not dispute the factum of compromise arrived at between the parties.

The Hon'ble Apex Court while answering a reference in the case of ***Gian Singh Vs. State of Punjab & Anr.*** reported in ***JT 2012(9) SC – 426*** has held as below:-

“57. The position that emerges from the above discussion can be summarised thus: the power of the High Court in quashing a criminal proceeding or FIR or complaint in exercise of its inherent jurisdiction is distinct and different from the power given to a criminal court for compounding the offences under Section 320 of the Code. Inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accord with the guideline engrafted in such power viz; (i) to secure the ends of justice or (ii) to prevent abuse of the process of any Court. In what cases power to quash the criminal proceeding or complaint or F.I.R may be exercised where the offender and victim have settled their dispute would depend on the facts and circumstances of each case and no category can be prescribed. However, before exercise of such power, the High Court must have due regard to the nature and gravity of the crime. Heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. cannot be fittingly quashed even though the victim or victim's family and the offender have settled the dispute. Such offences are not private in nature and have serious impact on society. Similarly, any compromise between the victim and offender in relation to the offences under special statutes like Prevention of Corruption Act or the offences committed by public servants while working in that capacity etc; cannot

provide for any basis for quashing criminal proceedings involving such offences. But the criminal cases having overwhelmingly and pre-dominantly civil flavour stand on different footing for the purposes of quashing, particularly the offences arising from commercial, financial, mercantile, civil, partnership or such like transactions or the offences arising out of matrimony relating to dowry, etc. or the family disputes where the wrong is basically private or personal in nature and the parties have resolved their entire dispute. In this category of cases, High Court may quash criminal proceedings if in its view, because of the compromise between the offender and victim, the possibility of conviction is remote and bleak and continuation of criminal case would put accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case despite full and complete settlement and compromise with the victim. In other words, the High Court must consider whether it would be unfair or contrary to the interest of justice to continue with the criminal proceeding or continuation of the criminal proceeding would tantamount to abuse of process of law despite settlement and compromise between the victim and wrongdoer and whether to secure the ends of justice, it is appropriate that criminal case is put to an end and if the answer to the above question(s) is in affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding."

Keeping in view the observations made by Hon'ble Supreme Court in **Gian Singh's** case (supra) this Court is of the opinion that it is a fit case, wherein criminal proceedings pending against the petitioner can be quashed while exercising powers under Section 528 of BNSS.

Accordingly, this criminal misc. petition is allowed; the criminal proceedings pending against the petitioner before the court of learned Additional Chief Judicial Magistrate No.2, Udaipur in Complaint Case No.125/2017 titled as "State Vs. Kailash Kharol", are hereby quashed.

Stay application and all pending applications, if any, stands disposed of accordingly.

(BALJINDER SINGH SANDHU),J