

24. With the aforesaid the appeal is **partly allowed**. The impugned judgment and order dated 10.03.2023 and award dated 13.03.2023 passed in Motor Accident Claim Petition No.287 of 2017; Aman Kumar Versus Arun Kumar and others by the Motor Accident Claims Tribunal, Hardoi is hereby set aside. The matter is remitted back to the concerned Tribunal to decide the claim petition afresh in the light of the above observations/directions.

25. Since the matter is of the year 2017, this court deems it appropriate to direct to the Tribunal to decide the claim petition afresh expeditiously and preferably within a period of four months from the date fixed before the Tribunal in this order for appearance of the parties without granting unnecessary adjournment to either of the parties.

26. The parties shall appear before the concerned Tribunal on 24th of March, 2025.

27. The statutory deposit made before this court and any other amount under any order passed by this court shall be remitted to the concerned Tribunal forthwith and in any case within a period of four weeks from today, the disbursement of which shall abide by the fresh decision taken by the Tribunal.

(2025) 3 ILRA 38
APPELLATE JURISDICTION
CIVIL SIDE
DATED: LUCKNOW 11.03.2025

BEFORE

THE HON'BLE VIVEK CHAUDHARY, J.
THE HON'BLE OM PRAKASH SHUKLA, J.

First Appeal No. 27 of 2018

Khajanchi **...Appellant**
Preete **Versus** **...Respondent**

Counsel for the Appellant:

Umesh Chandra Saxena, Santosh Kumar Maurya

Counsel for the Respondent:

Sanjay Kumar Patel (S.K.), Shrawan Kumar Verma)

Family Law — Hindu Marriage Act, 1955 - Sections 13 & 13B — Divorce — Appeal against dismissal of divorce petition by Family Court — Long separation and absence of cohabitation — Settlement arrived at before Mediation and Conciliation Centre — Payment of permanent alimony completed — All pending litigations agreed to be withdrawn — No further claims to be raised — Code of Civil Procedure, 1908 — Section 89(2)(d), Order XXIII Rule 3 — Mediation — Court empowered to pass decree based on voluntary and lawful mediated settlement — Satisfaction of statutory requirements under CPC and Mediation Rules — Decree of divorce rightly passed on basis of compromise- U.P. Civil Procedure Mediation Rules, 2009 — Rule 26 — Settlement recorded by Mediation Centre found to be voluntary and non-collusive — Court satisfied before passing decree-Held, decree of divorce by mutual consent granted in terms of Settlement Agreement — Appeal allowed. (Paras 10 to 14)

HELD:

In this regard, this Court is guided by Section 89(2)(d) of the Code of Civil Procedure, 1908, which St.s that where a dispute has been referred for mediation, the mediator will assist the parties in reaching a settlement, and if a settlement is arrived at, the Court may pass a decree in accordance with its terms. This ensures that mediated settlements have legal enforceability and enables courts to grant decrees based on mutually agreed terms,

thereby promoting amicable dispute resolution.... (para 10)

Additionally, Rule 26 of the U.P. Civil Procedure Mediation Rules, 2009, mandates that the Court ensure the settlement is not collusive and has been arrived at voluntarily.... (Para 11)

In the present case, both parties have amicably resolved and settled all pending cases and consideration has also been exchanged between them as per the Settlement Agreement dated 07.04.2022, executed before the Mediation and Conciliation Centre of this Court. Upon perusal of the said agreement and after considering the submissions made by the learned counsels for the parties, this Court is satisfied that the settlement is bonafide and voluntary. The only thing now remaining is the passing of a decree of divorce between the parties. (Para 12)

In this regard, this Court is also guided by Order XXIII Rule 3 of the Code of Civil Procedure, 1908 which allows compromise of suits, provided that such compromise is in writing and signed by the parties. It is evident from the records of the case before this Court that the Settlement Agreement dated 07.04.2022 fulfills these requirements and has been entered into voluntarily by the parties. As per this provision, the Court is bound to record the agreement and pass a decree in accordance with it.... (Para 13)

Since the settlement is bona fide and has been acted upon by both parties, this Court, in the exercise of its powers under Order XXIII Rule 3 of the Code of Civil Procedure, 1908, is competent to pass a decree in terms of the settlement, even beyond the scope of the original suit. Furthermore, as the proceedings arise from the Family Court, this Court is also empowered to grant a decree of divorce under Section 13B of the Hindu Marriage Act, 1955, in light of the settlement, as recognized under Order XXIII Rule 3 of Code, 1908. (Para 14)

Appeal allowed. (E-14)

(Delivered by Hon'ble Vivek Chaudhary, J.
&
Hon'ble Om Prakash Shukla, J.)

(1) Heard Sri Dev Prakash Srivastava, Advocate holding brief of Sri Umesh Chandra Saxena, learned counsel for the appellant and Sri Pankaj Kumar Sahu, Advocate holding brief of Sri Shrawan Kumar Verma, learned counsel for the respondent as well as perused the record.

(2) The instant First Appeal under Section 19(1) of the Family Courts Act, 1984 arises out of judgment and order dated 13.02.2018 passed by learned Family Court/Additional District and Sessions Judge/F.T.C. Lakhimpur Kheri in H.M. Case No.61 of 2013 (Khajanchi Vs. Preete), whereby the suit for Divorce under Section 13 of the Hindu Marriage Act preferred by the appellant was dismissed.

(3) We have heard the learned counsel for both parties and have carefully reviewed the records. Brief facts of the present case are that in the year 2006, marriage between appellant/Khajanchi and respondent/Preete was solemnized as per Hindu Rites and Rituals. Shortly after the marriage, the respondent began frequently visiting and staying at her parental home. The appellant contended that the respondent failed to fulfill her marital duties and had refused to cohabit with him due to health reason.

(4) Subsequently, the matrimonial relationship between the parties became strained. On 12.01.2013, the respondent left the matrimonial home and has since been residing with her parents. Despite the appellant's repeated efforts to reconcile and provide support, the respondent chose to remain absent from the matrimonial home, prompting the appellant to file for divorce.

(5) The appellant's suit for divorce, registered as H.M. Case No. 61 of 2013, was on the ground that the parties had been living separately for a prolonged period, and that the respondent had refused to fulfill her marital duties. However, the learned Family Court dismissed the divorce petition by its order dated 13.02.2018, finding that the grounds for divorce were not substantiated.

(6) The appellant, aggrieved by the dismissal order dated 13.02.2018, has preferred this First Appeal seeking relief against the Family Court's decision.

(7) On 20.09.2019, the matter was referred to the Mediation and Conciliation Centre of this Court.

(8) In pursuance of the aforesaid order dated 20.09.2019, both the parties appeared before the Mediation and Conciliation Centre of this Court for amicable settlement of their dispute. The learned Mediator has sent a report dated 07.04.2022 along with agreement between the parties, stating that the mediation proceedings have been completed and an agreement is reached between the parties which is enclosed. The relevant portion of the agreement is being quoted hereunder:-

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

A) That both the parties have agreed to resolve their dispute by way of one time settlement which is quantified for Rs. 10,50,000/- (Rupees Ten Lakh Fifty Thousand Only) as mutually agreed in lieu of permanent alimony to be paid by Mr. Khajanchi (Husband/First Party) to Ms. Preete (Wife/Second Party).

B) That both the parties have agreed that they shall not raise any claim of any sort against each other in future in respect of any right arising out of the marriage which is being dissolved through this settlement.

C) That out of the entire amount of Rs.10,50,000/- (Rupees Ten Lakh Fifty Thousand Only), a sum of Rs. 5,25,000/- (Rupees Five Lakh Twenty Five Thousand only) has been received by Ms. Preete (Wife/ Second Party) by way of a Demand Draft bearing no. 000076 dated 22.03.2022 issued in the name of Priti Devi (name is as per passbook) from AXIS BANK Branch at Bhandsaria Kher UP on 31.03.2022 and rest of the amount of Rs. 5,25,000/- (Rupees Five Lakh Twenty Five Thousand only) is paid today i.e. 07.04.2022 by the First Party to the Second Party by way of Demand Draft bearing no. 000077 dated 05.04.2022 issued in the name of Priti Devi from AXIS BANK, Branch at Bhandsaria Kher UP.

D) That the Second Party has agreed to get the marriage dissolved in the light of this agreement so mutually arrived at between the parties.

E) That both the parties have agreed to withdraw/not press/to get decided all the cases filed against each other in terms of present agreement, the details of which are as under:

1. Crl. Case No. 639 of 2018 U/S 125 Cr. P. C. (Preete Vs. Khajanchi) pending before Addll. Principal Judge, Family Court, Lakhimpur Kheri.

Besides the above if any other case is pending or filed between both the parties the same shall be withdrawn by either of the concerned parties.

\F) That it is also agreed between the parties that neither they themselves nor any member of their respective families shall institute any malicious prosecution, in

the form of any criminal or civil proceedings against each other, or any of their relative or family members, in future in respect to the present dispute or any matter incidental there to and if any proceeding has already been initiated the same would stand disposed off in terms of this Settlement Agreement.

G) That both the parties understand, agree and further bind themselves that if either of the parties rescinds or does not follow the conditions stipulated herein above, such act shall entail for appropriate legal action.

By signing this agreement the parties hereto state that they have no further claims or demands against each other with respect to First Appeal No. 27 of 2018 (Khajanchi Vs. Preete) and all disputes and difference in this regard have been amicably settled by the parties hereto through the process of Conciliation/ Mediation."

(9) In light of the aforementioned facts, learned counsel for the parties, after consulting their respective clients, submit that the present case may be disposed of in terms of the compromise dated 07.04.2022, referred to as the "Settlement Agreement," which was duly executed before the Mediation and Conciliation Centre of this Court. They further stated that rest of the terms of the compromise are already complied with by the parties.

(10) In this regard, this Court is guided by Section 89(2)(d) of the Code of Civil Procedure, 1908, which states that where a dispute has been referred for mediation, the mediator will assist the parties in reaching a settlement, and if a settlement is arrived at, the Court may pass a decree in accordance with its terms. This ensures that mediated settlements have

legal enforceability and enables courts to grant decrees based on mutually agreed terms, thereby promoting amicable dispute resolution. The relevant provision is reproduced below:

"Section 89. Settlement of disputes outside the Court:

(2) Where a dispute has been referred- (d) for mediation, the Court shall effect a compromise between the parties and shall follow such procedure as may be prescribed."

(11) Additionally, Rule 26 of the U.P. Civil Procedure Mediation Rules, 2009, mandates that the Court ensure the settlement is not collusive and has been arrived at voluntarily. The relevant provision is reproduced below:

"U.P. Civil Procedure Mediation Rules, 2009

Rule 26 . Court to fix a date for recording settlement and passing decree: -
On the parties appearing before the Court on the date fixed by the mediator, or such other day, not being beyond seven days from the date fixed by the mediator, the Court concerned shall hear the parties and if it is satisfied that the parties have settled their disputes voluntarily and that the settlement is not collusive, then it shall pass a decree in accordance with the settlement so recorded, if the settlement disposes of all the issues in the suit.

(i) If the settlement disposes of only certain issues arising in the suit or proceeding, the Court shall record the settlement in respect of those issues if they are severable from other issues and if a decree could be passed to the extent of the settlement covered by those issues, then the Court may pass a decree straightaway in accordance with the settlement on those

issues without waiting for a decision of the Court on the other issues which are not settled.

(ii) If the issues are not severable, then in that event, the Court shall wait for a decision of the Court on the other issues, which are not settled.”

(12) In the present case, both parties have amicably resolved and settled all pending cases and consideration has also been exchanged between them as per the Settlement Agreement dated 07.04.2022, executed before the Mediation and Conciliation Centre of this Court. Upon perusal of the said agreement and after considering the submissions made by the learned counsels for the parties, this Court is satisfied that the settlement is bonafide and voluntary. The only thing now remaining is the passing of a decree of divorce between the parties.

(13) In this regard, this Court is also guided by Order XXIII Rule 3 of the Code of Civil Procedure, 1908 which allows compromise of suits, provided that such compromise is in writing and signed by the parties. It is evident from the records of the case before this Court that the Settlement Agreement dated 07.04.2022 fulfills these requirements and has been entered into voluntarily by the parties. As per this provision, the Court is bound to record the agreement and pass a decree in accordance with it. Order XXIII, Rule 3 of the CPC is being reproduced below:

“3. Compromise of suit.- *Where it is proved to the satisfaction of the Court that a suit has been adjusted wholly or in part by any lawful agreement or compromise (in writing and signed by the parties), or where the defendant satisfies the plaintiff in respect of the whole or any*

part of the subject-matter of the suit, the Court shall order such agreement, compromise or satisfaction to be recorded, and shall pass a decree in accordance therewith (so far as it relates to the parties to the suit, whether or not the subject-matter of the agreement, compromise or satisfaction is the same as the subject-matter of the suit).

(14) Since the settlement is bona fide and has been acted upon by both parties, this Court, in the exercise of its powers under Order XXIII Rule 3 of the Code of Civil Procedure, 1908, is competent to pass a decree in terms of the settlement, even beyond the scope of the original suit. Furthermore, as the proceedings arise from the Family Court, this Court is also empowered to grant a decree of divorce under Section 13B of the Hindu Marriage Act, 1955, in light of the settlement, as recognized under Order XXIII Rule 3 of Code, 1908.

(15) As all proceedings between the parties have already been settled and the agreed monetary consideration has been exchanged, the only remaining formality is the granting of a decree in accordance with the Settlement Agreement. Therefore, in the interest of justice and to avoid unnecessarily prolonging the litigation, this Court allows the appeal in terms of the Settlement Agreement dated 07.04.2022.

(16) Accordingly, a decree of divorce by mutual consent under Section 13B of the Hindu Marriage Act, 1955, is granted to the parties as per the terms of the Settlement Agreement dated 07.04.2022 entered into by the parties, executed before the Mediation and Conciliation Centre of this Court. No further claims beyond the agreement shall be entertained between the

parties concerning their
matrimonial relationship.

(17) First Appeal is **allowed** in terms of the above.

(2025) 3 ILRA 43

ORIGINAL JURISDICTION

CIVIL SIDE

DATED: ALLAHABAD 04.03.2025

BEFORE

THE HON'BLE VIVEK KUMAR BIRLA, J.
THE HON'BLE NALIN KUMAR SRIVASTAVA, J.

Habeas Corpus Writ Petition No. 384 of 2024

Kapil Kasana ...Petitioner
Versus
Union of India & Ors. ...Respondents

Counsel for the Petitioner:

Sri Arvind Srivastava, Ms. Katyaini Singh,
Sri Nigamendra Shukla, Sri Pratik Kumar

Counsel for the Respondents:

A.S.G.I., G.A., Sri Prem Narayan Rai

**Criminal Law - National Security Act, 1980
- Section 3 (2) - Indian Penal Code, 1860 -
Sections 147, 148, 149, 302 & 404 -
Against detention order - Due to animosity
of Gram Pradhan election, petitioner along
with other associates committed murder
of brother of informant, by firing upon him
at public place carrying arms - Taking
cognizance, proceedings under NSA
started against all accused persons
including petitioner - Held, in some cases,
detenue has been acquitted whereas in
some cases police found no evidence,
resulted into submission of closure reports
- After getting acquittal in four cases in
2010, no crime committed by detenue up
to 2019, hence for period of 9 years
detenue never indulged in anti-social
activities - Investigating Officer
mentioned about disturbance of law and
order but such St.ments not given by**

informant and eye witnesses - Authority failed to find nexus between alleged offences and order of detention. (Para 14, 23, 26, 27)

Apprehension of D.M. that detainee who was detained in jail, likely to get bail soon and further satisfaction that he may be involved in activities prejudicial to maintenance of public order has no rational basis - Impugned order quashed. (Para 33)

Writ petition allowed. (E-13)

List of Cases cited:

1. Nenavath Bujji Vs The St. of Telangana & ors., 2024 0 Supreme (SC) 265
2. Rameshwar Shaw Vs D.M., Burdwan & anr., 1963 0 Supreme (SC) 221, (Paras 9, 10)
3. Ramesh Yadav Vs D.M., Etah & ors., 1985 0 Supreme (SC) 301
4. Shashi Aggarwal Vs St. of U.P., 1988 LawSuit (SC) 12
5. Veeri Singh Vs U.O.I. & ors., 2016 0 Supreme (All) 714
6. Alijan Mian Vs D.M., Dhanbad, AIR 1983 SC 1130
7. Ramesh Yadav Vs D.M., Etah, AIR 1986 SC 315
8. Pushkar Mukherjee Vs St. of W.B., (1969) 1 SCC 10, (Para 13)
9. Khudiram Das Vs St. of Bengal, (1975) 2 SCC 81, (Para 52)
10. Kamarunnissa Vs U.O.I.& anr. 1990 (27) ACC 621 SC, (Para 13)
11. Yumman Ongbi Lembi Leima Vs St. of Manipur & ors., Criminal Appeal No.26 of 2012 decided on 4.1.2012
12. Vijay Narain Singh Vs St. of Bihar, (1984) 3 SCC 14