



2026:DHC:1891



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Reserved on: 13.02.2026
Pronounced on: 03.03.2026
Uploaded on: 03.03.2026

+ **CRL.M.C. 7253/2025**

ANTONNETTE PROMILLA FERNANADEZPetitioner
Through: Mr. Ravi Sharma, Ms. Srishti
Sharma, Mr. Pulkit Luthra & Mr.
Harshit Luthra, Advocates
alongwith Petitioner in Person.

versus

STATE NCT OF DELHI AND ANR.Respondents
Through: Mr. Hitesh Vali, APP for State
with SI Harish Kumar, P.S. S.B.
Dairy.
Mr. Devansh Gupta, Advocate for
R-2.

CORAM:
HON'BLE MR. JUSTICE PRATEEK JALAN

J U D G M E N T

1. The petitioner¹, by way of this petition under Section 528 of the Bharatiya Nagarik Suraksha Sanhita ["BNSS"] (corresponding to Section 482 of the Code of Criminal Procedure, 1973 ["CrPC"]), seeks quashing of FIR No. 109/2019 dated 07.03.2019 registered at Police Station Shahbad Dairy, District Outer North, Delhi, under Section 308 of the Indian Penal Code, 1860 ["IPC"], on the ground of a compromise between her and respondent No.2 - complainant.

¹ By order dated 13.02.2026, it was clarified that the name of the petitioner is 'Ms. Antonette Pamela Fernandez', and there is a typographical error in the petition where her name has been mentioned as 'Antonnette Promilla Fernanadez'.



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2. Notice was issued in this petition on 13.10.2025. The State has filed a status report, and respondent No. 2 has also filed a detailed reply.
3. I have heard Mr. Ravi Sharma, learned counsel for the petitioner, Mr. Hitesh Vali, learned Additional Public Prosecutor for the State, and Mr. Devansh Gupta, learned counsel for respondent No. 2.
4. This case arises in unusual circumstances.
5. The petitioner was an orphan, and was being looked after by the Missionaries of Charity at their home in Civil Lines, Delhi. When she was about three months old, respondent No. 2 and her husband, Mr. Malcolm Maurice Fernandez (since deceased), applied to the District Judge, Delhi, to be appointed as her guardians under the Guardians and Wards Act, 1890 [“G&W Act”]. The District Judge, Delhi, by an order dated 25.02.1993, allowed the application, and appointed them as her guardians, until she attained majority. A certificate dated 03.03.1993 was issued to this effect, which stipulated that they would act as her guardians until 21.07.2013. The petitioner thereafter lived with respondent No. 2 and her family from her infancy. She completed her college degree at Jesus and Mary College in New Delhi.
6. The subject FIR was registered at the instance of respondent No.2 on 07.03.2019, concerning an incident of 03.02.2019. Respondent No. 2 alleged that, on the said day, the petitioner attacked her on her head with a wooden cross while she was praying, and also bit her hands, injured her eye and injured her in the abdomen, using a knife. Respondent No.2 did not immediately make a statement to the police, considering it to be a family matter, but ultimately made a statement to the police on 16.02.2019, leading to registration of the FIR on 07.03.2019. The FIR



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also refers to the petitioner's Medico Legal Case ["MLC"] recorded at Baba Saheb Ambedkar Hospital, Rohini, which characterised the injuries of respondent No. 2 as simple. The FIR was, therefore, registered under Section 308 of the IPC. After investigation, a chargesheet was filed on 07.01.2020, and a supplementary chargesheet was thereafter filed on 29.09.2023.

7. By order dated 08.12.2023 (in Sessions Case No. 485/2023), the learned Principal District & Sessions Judge (North), Rohini Courts, framed a charge under Section 307 of the IPC against the petitioner.

8. The trial is in progress. However, in the course of cross-examination, on 09.12.2024, respondent No.2 stated that she was willing to cooperate in settling the dispute, and quashing of the FIR. Further evidence was deferred at the request of learned counsel for the petitioner.

9. The petitioner and respondent No. 2 have since entered into a Memorandum of Understanding ["MoU"] dated 11.08.2025, wherein it has been recorded that the parties have arrived at an amicable settlement with the intervention of the Court, and that respondent No. 2 does not wish to pursue the criminal proceedings any further. The MoU also records that both parties had filed civil suits against each other, which were settled and disposed of before the Lok Adalat in the year 2022. In the statement of the petitioner in the civil proceedings, she had apologised for her past conduct, including the events of 03.02.2019, and expressed gratitude for the love and care bestowed upon her by respondent No. 2 and her family. It was further stated that the petitioner would have no right, title, interest, concern or connection with any assets of respondent No. 2. The MoU further recorded that respondent No. 2 had forgiven the



petitioner for her past actions, particularly the events of 03.02.2019, and undertook to cooperate in quashing of the present FIR.

10. These events have led to the filing of the present petition, seeking quashing of the criminal proceedings on the ground of compromise. The petition is accompanied by an affidavit of no objection, signed by respondent No. 2, which is reproduced below:

“2. The petitioner (i.e. Antonette Pamela Fernandez) has in its statement before the Civil Judge on 24.09.2022 has stated that she is apologetic for her acts/ conducts in the past, especially in respect of the unfortunate events that took place on 03.02.2019. The petitioner is remorseful for her previous conduct and actions and is grateful to the respondent No.2 and her family members, who have always treated her with utmost love and care. The petitioner undertook that she will have no right, title, interest, concern or connection with the any assets of the respondent No.2 or her family members especially with regard to the property i.e. G-4/25, Sector-11, Rohini, Delhi and furthermore the petitioner will not enter the residential house of the respondent No.2 in present or in future.

3. I decided to forgive the petitioner for the all past unfortunate events including the incident of February 3rd, 2019 and have amicably settled all the disputes with the petitioner herein and no dispute or claim of any nature whatsoever is left against her.

4. It is made clear that the petitioner is not my adopted daughter. I and my late husband were appointed only as her joint guardians by the District Court, Delhi vide order, dated 25.02.1993, of the petitioner till the majority i.e. 21.07.2013 as per the Guardians & Wards Act, 1890 and the hon'ble Court further issued a certificate on 03.03.1993 in regard.

5. That it is further made clear that the injuries inflicted upon me by the petitioner and suffered by me on 03.02.2019 were grievous and not simple in nature.

6. It is made clear that in no way shall signing and filing this affidavit be construed as an admission of the submissions and averments made by the petitioner in the captioned quashing petition. I reserve my right to file a reply to the quashing petition, if the need arises.



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7. *I have No Objection if the FIR bearing No.109/2019 dated 07.03.2019 registered under Section 308 IPC with P.S. Shahbad Dairy, Delhi, is quashed.”²*

11. The petitioner was present in person at the hearings on 10.02.2026, 11.02.2026 and 13.02.2026. She was identified by Mr. Sharma and the Investigating Officer [“IO”].

12. Respondent No. 2 was present on video conference at the hearing on 10.02.2026. She was identified by Mr. Gupta and the IO. I had also interacted with respondent No. 2, and she confirmed that she does not wish to pursue criminal proceedings against the petitioner.

13. Mr. Vali, however, opposed the present petition on the ground that the charge relates to a grievous offence under Section 307 of the IPC, and that the prosecution evidence had already commenced. He submitted that respondent No. 2 has testified in support of the prosecution charges and also withstood cross-examination.

14. Mr. Sharma and Mr. Gupta, on the other hand, submitted that charges be quashed on the basis of the understanding between the parties.

15. It is now well settled that, even in the case of non-compoundable offences, the High Court may exercise inherent powers, recognised by Section 482 of the CrPC and Section 528 of the BNSS, to quash proceedings based on a compromise between the parties. However, the aforesaid power is discretionary, and certain principles have been laid down, which guide the Court in adjudicating an application of this nature.

² Emphasis supplied.



16. The judgment of the Supreme Court in *Gian Singh v. State of Punjab*³ referred to several earlier judgments, including some concerning Section 307 of the IPC⁴, and summarised the law as follows:

*“61. 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 FIR may be exercised where the offender and the 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 a serious impact on society. Similarly, any compromise between the victim and the offender in relation to the offences under special statutes like the 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 predominatingly civil flavour stand on a 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, the High Court may quash the criminal proceedings if in its view, because of the compromise between the offender and the victim, the possibility of conviction is remote and bleak and continuation of the criminal case would put the 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*

³ (2012) 10 SCC 303, [hereinafter, “*Gian Singh*”].

⁴ *Ishwar Singh v. State of Madhya Pradesh*, (2008) 15 SCC 667.



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 the wrongdoer and whether to secure the ends of justice, it is appropriate that the criminal case is put to an end and if the answer to the above question(s) is in the affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding.”⁵

17. Three later judgments of the Supreme Court specifically deal with proceedings under Section 307 of the IPC:

a. In *Narinder Singh & Ors. v. State of Punjab & Anr.*⁶, after referring to the judgment in *Gian Singh*, and various judgments dealing with Section 307, the Court distilled the following legal principles:

“29. In view of the aforesaid discussion, we sum up and lay down the following principles by which the High Court would be guided in giving adequate treatment to the settlement between the parties and exercising its power under Section 482 of the Code while accepting the settlement and quashing the proceedings or refusing to accept the settlement with direction to continue with the criminal proceedings:

29.1. Power conferred under Section 482 of the Code is to be distinguished from the power which lies in the Court to compound the offences under Section 320 of the Code. No doubt, under Section 482 of the Code, the High Court has inherent power to quash the criminal proceedings even in those cases which are not compoundable, where the parties have settled the matter between themselves. However, this power is to be exercised sparingly and with caution.

29.2. When the parties have reached the settlement and on that basis petition for quashing the criminal proceedings is filed, the guiding factor in such cases would be to secure:

- (i) ends of justice, or*
- (ii) to prevent abuse of the process of any court.*

While exercising the power the High Court is to form an opinion on either of the aforesaid two objectives.

29.3. Such a power is not to be exercised in those prosecutions which involve heinous and serious offences of mental depravity or offences

⁵ Emphasis supplied.

⁶ (2014) 6 SCC 466, [hereinafter, “*Narinder Singh*”].



like murder, rape, dacoity, etc. Such offences are not private in nature and have a serious impact on society. Similarly, for the offences alleged to have been committed under special statute like the Prevention of Corruption Act or the offences committed by public servants while working in that capacity are not to be quashed merely on the basis of compromise between the victim and the offender.

29.4. On the other hand, those criminal cases having overwhelmingly and predominantly civil character, particularly those arising out of commercial transactions or arising out of matrimonial relationship or family disputes should be quashed when the parties have resolved their entire disputes among themselves.

29.5. While exercising its powers, the High Court is to examine as to whether the possibility of conviction is remote and bleak and continuation of criminal cases would put the accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal cases.

29.6. Offences under Section 307 IPC would fall in the category of heinous and serious offences and therefore are to be generally treated as crime against the society and not against the individual alone. However, the High Court would not rest its decision merely because there is a mention of Section 307 IPC in the FIR or the charge is framed under this provision. It would be open to the High Court to examine as to whether incorporation of Section 307 IPC is there for the sake of it or the prosecution has collected sufficient evidence, which if proved, would lead to proving the charge under Section 307 IPC. For this purpose, it would be open to the High Court to go by the nature of injury sustained, whether such injury is inflicted on the vital/delicate parts of the body, nature of weapons used, etc. Medical report in respect of injuries suffered by the victim can generally be the guiding factor. On the basis of this prima facie analysis, the High Court can examine as to whether there is a strong possibility of conviction or the chances of conviction are remote and bleak. In the former case it can refuse to accept the settlement and quash the criminal proceedings whereas in the latter case it would be permissible for the High Court to accept the plea compounding the offence based on complete settlement between the parties. At this stage, the Court can also be swayed by the fact that the settlement between the parties is going to result in harmony between them which may improve their future relationship.

29.7. While deciding whether to exercise its power under Section 482 of the Code or not, timings of settlement play a crucial role. Those cases where the settlement is arrived at immediately after the alleged commission of offence and the matter is still under investigation, the



High Court may be liberal in accepting the settlement to quash the criminal proceedings/investigation. It is because of the reason that at this stage the investigation is still on and even the charge-sheet has not been filed. Likewise, those cases where the charge is framed but the evidence is yet to start or the evidence is still at infancy stage, the High Court can show benevolence in exercising its powers favourably, but after prima facie assessment of the circumstances/material mentioned above. On the other hand, where the prosecution evidence is almost complete or after the conclusion of the evidence the matter is at the stage of argument, normally the High Court should refrain from exercising its power under Section 482 of the Code, as in such cases the trial court would be in a position to decide the case finally on merits and to come to a conclusion as to whether the offence under Section 307 IPC is committed or not. Similarly, in those cases where the conviction is already recorded by the trial court and the matter is at the appellate stage before the High Court, mere compromise between the parties would not be a ground to accept the same resulting in acquittal of the offender who has already been convicted by the trial court. Here charge is proved under Section 307 IPC and conviction is already recorded of a heinous crime and, therefore, there is no question of sparing a convict found guilty of such a crime.”

b. In *State of Madhya Pradesh v. Laxmi Narayan & Ors.*⁷, the same principles have been reiterated.

c. In the recent judgment in *Naushey Ali & Ors. v. State of Uttar Pradesh & Anr.*⁸, these principles were applied to set aside a prosecution under Section 307.

18. Applying these principles to the facts of the present case, upon an overall consideration of the facts and circumstances of the case, I am of the view that it would be appropriate to exercise the inherent powers of this Court to quash the proceedings.

19. Although there were several injuries sustained by respondent No. 2, they were characterised as “simple”. That the prosecution, under

⁷ (2019) 5 SCC 688, [hereinafter, “*Laxmi Narayan*”].

⁸ (2025) 4 SCC 78.



Section 307 of the IPC, would ultimately result in conviction cannot, in these circumstances, be anticipated at this stage.

20. Further, and most importantly, the dispute is in the nature of a “family dispute”. The relationship between the parties is akin to a mother-and-child relationship, a relationship that is socially recognised as singular and sacrosanct. Respondent No. 2 and her husband brought the petitioner to their home when the petitioner was, but three months old. They successfully applied to be appointed as her guardians until she attained majority. Even thereafter, they permitted her to continue residing in their home, and, in the words of respondent No. 2 herself:

“9. The Respondent and her family, out of love and affection for the Petitioner, used to swallow their emotions and gave into every demand raised by the Petitioner. The Respondent used to express by way of words and gestures that she loved the Petitioner very much and only wants what is best for her and that she wanted the Petitioner to stay with them as a family member.

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11. The Respondent duly discharged all her legal and pious duties and obligations towards the Petitioner’s support, health, education (a graduate of Jesus and Mary College, Delhi University) and such other matters as per law. That even after the Petitioner attained majority i.e. after 21.07.2013, the Respondent, out of natural love and affection, permitted the Petitioner to continue to reside with her at the premises, fed and looked after her. The Petitioner continued to be treated as a member of the family by the Respondent and her natural born son Mr. Anthony Fernandez and that too no differently than her natural born son.”

21. It is clear that the relationship between the petitioner and respondent No. 2, though not legally that of a parent and child, was no different from such a relationship, socially and emotionally. Respondent No. 2 has recounted in her affidavit, the dynamics of that relationship, which included rough patches and differences of opinion beginning in the petitioner’s teenage years. However, such elements are not unusual in



parent-child relationships, and I would not characterise the relationship differently for that reason.

22. Although respondent No. 2, in her affidavit, has expressed anguish at the events of 03.02.2019, even at that stage, as mentioned in the FIR, she initially desisted from giving a statement to the police, describing the matter as a “family dispute”.

23. Civil proceedings were also instituted between the parties, which were subsequently settled before the Lok Adalat on 26.08.2022, and before the Civil Judge, District North West, Rohini Courts, on 24.09.2022. The genesis of the present settlement also lies in that settlement.

24. Respondent No. 2 is herself an educated lady, being a retired teacher. She has since taken a consistent and unequivocal stand in support of this petition:

- A. The settlement has been described in paragraphs 2 and 3 of the affidavit of no objection affirmed by respondent No. 2 on 11.08.2025, which have been extracted in paragraph 10 hereinabove.
- B. At the same time, the parties also entered into an MoU, which records that respondent No. 2 “*forgives the [petitioner] for the actions of the [petitioner], particularly those that occurred on 03.02.2019, and that the respondent no. 2 undertook to cooperate in the quashing of the present case.*”
- C. Six months thereafter, on 07.02.2026, respondent No. 2 affirmed an affidavit in reply to the present petition, wherein she reiterated the aforesaid settlement, including her decision to forgive the



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petitioner for the incident in question. She has further stated that she has no objection if the FIR and all proceedings arising therefrom are quashed. In fact, the affidavit in reply contains a specific prayer to that effect.

D. In my personal interaction with respondent No. 2 on 10.02.2026, I found her resolute in her desire not to proceed against the petitioner.

25. Respondent No. 2, thus, first affirmed this position in the year 2022, when the civil proceedings were settled; then, in the course of her cross-examination on 09.12.2024; again, in August 2025, when the MoU and affidavit of no objection were signed; and lastly in February 2026, in the reply filed on her behalf as well as during her interaction with the Court.

26. Despite the forgiveness expressed by respondent No. 2 towards the petitioner, whom she brought up as a daughter, must the Court compel the criminal proceedings to be taken to their logical conclusion? In my considered view, such a course would amount to a travesty of justice. If justice is ever to be tempered with mercy⁹, this is a fit case for such an approach. That profound sentiment must, in the peculiar facts of this case, transcend any societal or public interest in securing the petitioner's conviction.

⁹ Shakespeare, William, *The Merchant of Venice*, Act IV, Scene I (Portia's "Quality of Mercy" speech):

*"The quality of mercy is not strain'd.
It droppeth as the gentle rain from heaven
Upon the place beneath It is twice blest:
It blesseth him that gives and him that takes."*



27. In the facts of this case, I am therefore of the view that the petition deserves to be allowed, and the criminal proceedings emanating therefrom are liable to be quashed.

28. In order to avoid any further confusion or litigation, one aspect requires clarification, namely, the legal status of the relationship between the petitioner and respondent No. 2. In the petition, the petitioner has described herself as the “*adopted daughter*” of respondent No. 2. Indeed, in the FIR itself, respondent No. 2 is reported to have referred to the petitioner as “*मेरी लड़की*” [my daughter], and stated that she had “*adopted*” the petitioner from the Missionaries of Charity. However, it has been clarified in both the affidavits filed by respondent No. 2, that the petitioner was not, in fact, her adopted daughter; rather, she and her husband were her joint guardians under the G&W Act. To avoid any further confusion on this issue, the petitioner’s statement was recorded in Court on 13.02.2026 as follows:

“1. I am the petitioner in the above case and the accused in proceedings arising out of FIR No. 109/2019 dated 07.03.2019, registered under Section 308 of the Indian Penal Code, 1860, at Police Station Shahbad Dairy.

2. I have filed this petition seeking quashing of the criminal proceedings on account of a compromise.

3. **In the petition, I had stated that I am the adopted daughter of respondent No. 2. However, I acknowledge that I was never adopted by respondent No. 2 and her husband. Respondent No. 2 and her husband were appointed as my joint guardians by an order of the learned District Judge, Delhi, dated 25.02.1993, which remained in effect until I attained majority on 21.07.2013.**

4. **I acknowledge that respondent No. 2 and her family have no further obligation towards me, and I have no right over their property, including any right of inheritance.**”¹⁰

¹⁰ Emphasis supplied.



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29. It is clarified that nothing stated in this judgment derogates from the aforesaid accepted legal position.

30. Having come to the conclusion that the petition is liable to succeed, the criminal proceedings arising out of FIR No. 109/2019 dated 07.03.2019, registered at P.S. Shahbad Dairy, District Outer North, Delhi, under Section 308 of the IPC, are hereby quashed.

31. However, I am of the view that it would be appropriate to require the petitioner to undertake a period of community service. She is directed to report to the Medical Superintendent of St. Stephen's Hospital, Railway Colony, Tis Hazari, New Delhi - 110054, on 12.03.2026 at 11 A.M. The Medical Superintendent is requested to assign appropriate duties to her for 30 sessions of three hours each. The sessions may be scheduled at the convenience of the Hospital, taking into account any professional or work-related commitments of the petitioner; however, the same shall be completed within a period of four months from today.

32. The Medical Superintendent is requested to issue a certificate of compliance, which the petitioner is directed to place before this Court within five months from today. A copy of this judgment be transmitted to the Medical Superintendent.

33. The petition is accordingly disposed of with these directions.

PRATEEK JALAN, J

MARCH 03, 2026

'pv/Jishnu'