

(2020) 01 UK CK 0032

In the Uttarakhand High Court

Case No : Criminal Miscellaneous Application No. 2724 Of 2019

Akhtar Ali & Others

APPELLANT

Vs

State Of Uttarakhand & Another

RESPONDENT

Date of Decision : 08-01-2020

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 482

Indian Penal Code, 1860 — Section 147, 148, 307, 323, 324, 452, 504, 506

Citation : (2020) 01 UK CK 0032

Hon'ble Judges : N.S. Dhanik, J

Bench : Single Bench

Advocate : Mohit Kumar, Pramod Tewari, D.N. Sharma

Final Decision : Disposed Of

Judgement

N.S. Dhanik, J

This Criminal Miscellaneous Application, under Section 482 CrPC, along with compounding application, is preferred to quash the chargesheet dated

25.4.2018, summoning order dated 19.6.2018 as well as the entire proceedings of Criminal Case No. 5421 of 2018, State v. Akhtar Ali & Others,

under Sections 147, 148, 307, 323, 324 452, 504 and 506 IPC, pending in the Court of Judicial Magistrate, Rudrapur, District Udham Singh Nagar.

Consequent upon the FIR lodged by the respondent no. 2 against accused applicants, investigation was made and chargesheet was submitted and

thereafter the accused applicants have been summoned to face trial for the aforementioned offences.

In the compounding application, duly supported by the affidavits of applicant no. 1 and the complainant/respondent no. 2 as well as the victims, it has

been stated that parties have amicably settled their dispute and the complainant

and the victim do not want to prosecute the accused applicants.

Accused persons, the complainant and the victims, duly identified by their respective Counsel, appeared in person before this Court on

6.12.2019/18.12.2019. They admitted the contents of the compounding application and stated that they have entered into compromise and amicably settled the dispute.

Learned State Counsel opposed the compounding application and contended that offences under Section 147, 148, 307, 324 and 452 IPC are non-

compoundable. Emphasis of the learned State Counsel is on the offence under Section 307 IPC.

Learned Counsel for the accused applicants contended that none of the injuries is dangerous to life and there is no injury of firearm. Learned Counsel

placed reliance on a recent judgment of Honâ??ble Apex Court in State of Madhya Pradesh v. Laxmi Narayan, (2019) 5 SCC 688, wherein it has

been observed as under:

â??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.â??

Needless to say, non-compoundable offences cannot be compounded. But considering the nature of injuries, above authority of the Honâ??ble Apex

Court and also the proposition of law laid down by the Honâ??ble Apex Court in Nikhil Merchant v. C.B.I. & Ors, (2008) 9 SCC 677; B.S. Joshi v.

State of Haryana & Anr. reported in (2003) 4 SCC 675, and in Gian Singh v. State of Punjab & Another, (2012) 10 SCC 303, where there is a

genuine compromise and there is hardly any likelihood of the offender being convicted and continuance of the proceedings, after the compromise

having been arrived at between the parties, would be a futile exercise, the compromise should be accepted and the proceedings should be quashed.

Considering the facts and circumstances of the case and the legal proposition propounded by the Honâ??ble Apex Court, compounding application is

allowed. Compromise arrived at between the parties is accepted.

Consequently, the chargesheet dated 25.4.2018, summoning order dated 19.6.2018 as well as the entire proceedings of Criminal Case No. 5421 of

2018, State v. Akhtar Ali & Others, under Sections 147, 148, 307, 323, 324 452, 504 and 506 IPC, pending in the Court of Judicial Magistrate,

Rudrapur, District Udham Singh Nagar, are hereby quashed. Present criminal miscellaneous application stands disposed of.