

(2023) 08 UK CK 0118

In the Uttarakhand High Court

Case No : Compounding Application No. 3135 Of 2023 In Criminal Revision No. 32 Of 2019

G.B. Enterprises (Jaspur) And Another

APPELLANT

Vs

State Of Uttarakhand And Another

RESPONDENT

Date of Decision : 22-08-2023

Acts Referred:

Negotiable Instruments Act, 1881 — Section 138

Citation : (2023) 08 UK CK 0118

Hon'ble Judges : Alok Kumar Verma, J

Bench : Single Bench

Advocate : Mohd. Umar, Manisha Rana Singh, Pramod Tiwari, Prince Chauhan

Final Decision : Allowed

Judgement

Alok Kumar Verma, J

1. Revisionist-accused was convicted under Section 138 of the Negotiable Instruments Act, 1881 and he, proprietor of the revisionists firm, was sentenced to undergo rigorous imprisonment for a period of two months along with a fine of Rs.1,50,000/-.

2. Against the judgment dated 19.02.2015, passed by learned Special Judicial Magistrate, Kashipur, District Udham Singh Nagar in Complaint Case No.959 of 2013, an Appeal (Criminal Appeal No.45 of 2015) was filed. The said Appeal has been dismissed vide judgment dated 05.01.2019, passed by learned Ist Additional Sessions Judge, Udham Singh Nagar.

3. The complainant died after the judgment in appeal was passed and the Compounding Application has been filed by Smt. Nikita Agarwal, Tushar Agarwal and Riya Agarwal, wife, major son and the major daughter of the complainant.

4. Mr. Prince Chauhan, Advocate, further submits that the entire amount has been received from the revisionists. Therefore, a joint Compounding Application

has been filed by the parties along with affidavits with their free will and without any pressure.

5. Mr. Mohd. Umar, Advocate, submits that a sum of Rs.22,500/- (Rupees twenty thousand five hundred) (50% of the cheque amount) has been deposited. He has produced a receipt No.11 dated 22.08.2023, issued by the Uttarakhand State Legal Services Authority. The said receipt is taken on record.

6. Mr. Mohd. Umar, Advocate, has submitted that the revisionist-accused Sudhir Kumar Gahlot alias Garam Babu is in judicial custody.

7. Both the parties have requested to decide the present Revision on the basis of the compromise.

8. The present Criminal Revision (No.32 of 2019) deserves to be allowed and is accordingly allowed by holding since the offence has been compounded, revisionist-Sudhir Kumar Gahlot alias Garam Babu is entitled to acquittal.

9. Consequently, judgment dated 05.01.2019, passed by learned Appellate Court and judgment dated 19.02.2015, passed by learned Trial Court are set aside and the revisionist is ordered to be acquitted of the charge levelled against him.

10. A Copy of this judgment be sent to the Competent Authority of Sub-Jail, Haldwani forthwith for necessary compliance.