
(2019) 09 UK CK 0179

In the Uttarakhand High Court

Case No : Criminal Miscellaneous Application (C-482) No. 1825 Of 2019

Gurjant Singh Randhawa

APPELLANT

Vs

State Of Uttarakhand And Others

RESPONDENT

Date of Decision : 25-09-2019

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 482

Indian Penal Code, 1860 — Section 34, 147, 148, 149, 307, 323, 326, 504, 506

Citation : (2019) 09 UK CK 0179

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

Bench : Single Bench

Advocate : Harshpal Sekhon, Pramod Tiwari, S.R.S. Gill

Final Decision : Disposed Of

Judgement

N.S. Dhanik, J

1. This Criminal Miscellaneous Application, under Section 482 Cr.P.C., along with compounding application being CRMA No. 2613 of 2019, is preferred to quash the charge sheet dated 15.11.2016 and summoning order dated 04.01.2017 in league with entire proceedings of Session Trial No. 285 of 2017, "State vs. Gurjant Singh Randhawa, under Sections 147, 148, 149, 307, 323, 326, 504, 506 and 34 of IPC, registered at P.S. Bazpur, District Udham Singh Nagar, pending before the Court of Judicial Magistrate Bazpur, Udham Singh Nagar.

2. In the joint compounding application, duly supported by the affidavits of accused applicant and respondent nos. 2 to 5, it has been stated that parties have amicably settled their dispute and the injured do not want to prosecute the accused applicant. Accused applicant i.e. Gurjant Singh Randhawa as well as respondent nos. 2 to 5 i.e. Mohan Singh, Navdeep Singh, Umesh Pasi and Hardeep Singh, duly identified by their respective Counsel, were present before this Court on the previous date of listing and they admitted that they have entered into compromise. Compounding application bears the signatures/thumb

impressions of the accused applicant and the respondent nos. 2 to 5.

3. Learned State Counsel orally opposed the compounding application and contended that offences under Section 149, 307 and 326 IPC, for which the accused applicant is facing trial, is non-compoundable. Emphasis of the learned State Counsel is on the offence under Section 307 IPC.

4. Learned Counsel for the accused applicant contended that the injured received injury which is not dangerous for life. Learned Counsel placed reliance on a recent judgment of Hon'ble Apex Court in *State of Madhya Pradesh v. Laxmi Narayan*, (2019) 5 SCC 688, wherein it has been observed as under:

"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."

5. Needless to say, non-compoundable offences cannot be compounded. But considering the nature of injuries, above authority of the Hon'ble Apex Court and also the proposition of law laid down by the Hon'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.

6. Considering the facts and circumstances of the case and the legal proposition propounded by the Hon'ble Apex Court, compounding application is allowed. Compromise arrived at between the parties is accepted.

7. Consequently, the charge sheet dated 02.01.2017 as well as the summoning order dated 10.07.2017 passed by the learned Judicial Magistrate, Bazpur, District Udham Singh Nagar in league with entire proceedings of Criminal Case No. 390 of 2017, "State vs. Vikram Singh @ Vicky Khalisthani and others", under Sections 147, 148, 149, 307, 323, 326, 504, 506 and 34 of IPC, registered at P.S. Bazpur, District Udham Singh Nagar, pending before the Court of Judicial Magistrate Bazpur, Udham Singh Nagar are hereby quashed, so far it relates to the applicant only. The Present criminal miscellaneous application stands disposed of accordingly. Inform the Court concerned accordingly.