
(2021) 06 UK CK 0032

In the Uttarakhand High Court

Case No : Criminal Miscellaneous Application No. 379 Of 2011

Heera Lal & Others

APPELLANT

Vs

State Of Uttarakhand And Others

RESPONDENT

Date of Decision : 16-06-2021

Acts Referred:

Indian Penal Code, 1860 — Section 147,148, 149, 307, 323, 354, 452, 504, 506

Citation : (2021) 06 UK CK 0032

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

Bench : Single Bench

Advocate : Lalit Sharma, Mamta Joshi, Piyush Singh Kharayat

Final Decision : Disposed Of

Judgement

N.S. Dhanik, J

1. This criminal misc. application has been filed by the applicants to quash the cognizance order dated 19.12.2017 and the entire proceedings in

Criminal Case No. 1148 of 2017, â??State vs. Heera Lal & othersâ? under Sections 147,148, 149, 323, 452, 354, 504, 506 & 307 IPC, pending before

Judicial Magistrate Bazpur, District U.S. Nagar.

2. Now, parties have filed the joint compounding application stating therein that they have entered into compromise and amicably settled their dispute

and now the respondent nos. 2 to 6 do not have any grievance with the applicants. In support of compounding application, (IA No. 1/2021), affidavits

have been filed by the applicants as well as respondent nos. 2 to 6.

3. On 18.03.2021, parties were present before were present before this Court duly identified by their respective counsels. They admitted the settlement.

4. Compounding application bears the signatures/thumb impressions of the applicants and respondent nos. 2 to 6. It has been further stated by the parties that now they have amicably settled their dispute. Therefore, learned Counsel for the parties have submitted that the entire proceedings be quashed in terms of the compromise.

5. Learned State Counsel opposed the compounding application and submits that vide order dated 18.03.2021, medical reports pertaining to the case were to be brought on record, but a bare perusal of entire case diary reveals that there is no medical report. She further orally admits that there is no medical report in the instant case.

6. Learned Counsel for the applicants 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??

7. Needless to say, non-compoundable offences cannot be compounded. But

considering the 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.

8. 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 entire proceedings of Criminal Case No. 1148 of 2017,

â??State vs. Heera Lal & othersâ?, under Sections 147,148, 149, 323, 452, 354, 504, 506 & 307 IPC, pending before Judicial Magistrate Bazpur,

District U.S. Nagar are quashed qua the applicants in terms of the compromise.

9. Present criminal misc. application stands disposed of accordingly.