

(2020) 01 UK CK 0049

In the Uttarakhand High Court

Case No : Criminal Miscellaneous Application (C-482) No. 80 Of 2020

Imran & Another

APPELLANT

Vs

State Of Uttarakhand And Others

RESPONDENT

Date of Decision : 09-01-2020

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 482
Indian Penal Code, 1860 — Section 147, 148, 149, 307, 504, 506
Scheduled Castes And The Scheduled Tribes (Prevention Of Atrocities) Act, 1989 —
Section 3(1), 10

Citation : (2020) 01 UK CK 0049

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

Bench : Single Bench

Advocate : Dharmesh Kumar, Dinesh Chauhan, Narendra Bali

Final Decision : Disposed Of

Judgement

N.S. Dhanik, J

1. This Criminal Miscellaneous Application, under Section 482 Cr.P.C., along with compounding application, is preferred to quash the summoning

order dated 29.07.2019 passed by District and Session Judge, Haridwar in Criminal Complaint Case No. 274 of 2018, â??Smt. Krishna vs. Inaam &

othersâ? under Sections 147, 148, 149, 307, 504 & 506 of IPC and Section 3 (1) 10 SC/ST Act, registered at P.S. Ranipur, District Haridwar, pending

in the Court of learned District and Session Judge, Haridwar.

2. In the joint compounding application, duly supported by the affidavits of accused applicant no. 2 and the respondent nos. 2 & 3, it has been stated

that parties have amicably settled their dispute and the victims do not want to prosecute the accused. Accused applicants Imran and Momin as well as

the Smt. Krishna (respondent no. 2/ complainant) and Mainpal (injured), duly identified by their respective Counsel, are present before this Court today

and they admitted that they are entered into compromise. Compounding application bears the signatures/thumb impressions of all the accused

applicants and the complainant as well as the victim.

3. Learned State Counsel opposed the compounding application and contended that offences under Sections 147, 148, 149 of IPC & 3 (1) 10 SC & ST

Act, for which the accused applicants are facing trial, are non-compoundable. Emphasis of the learned State Counsel is on the offence under Section

307 IPC.

4. Learned Counsel for the accused applicants contended that none of the injured received any serious injury, all the injuries are simple in nature.

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??

5. 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 67;7 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 Honâ??ble Apex Court, compounding application

is allowed. Compromise arrived at between the parties is accepted.

7. Consequently, the entire proceedings of Criminal Complaint Case No. 274 of 2018, â??Smt. Krishna vs. Inaam & othersâ? under Sections 147,

148, 149, 307, 504 & 506 of IPC and Section 3 (1) 10 SC/ST Act, registered at P.S. Ranipur, District Haridwar, pending in the Court of learned

District and Session Judge, Haridwar are hereby quashed qua the present applicants.

8. Present criminal miscellaneous application stands disposed of accordingly. Inform the Court concerned accordingly.