

(2021) 09 UK CK 0305

In the Uttarakhand High Court

Case No : Criminal Miscellaneous Application (C-482) No. 178 Of 2020

Mohd. Rafi And Three Others

APPELLANT

Vs

State Of Uttarakhand And Others

RESPONDENT

Date of Decision : 29-09-2021

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 482

Indian Penal Code, 1860 — Section 34, 307, 323, 324, 504, 506

Citation : (2021) 09 UK CK 0305

Hon'ble Judges : Narayan Singh Dhanik, J

Bench : Single Bench

Final Decision : Disposed Of

Judgement

Narayan Singh Dhanik, J

1. By way of present application, moved under Section 482 of Cr.P.C. the applicants seek to quash the charge sheet, summoning order dated 02.08.2014 and the entire proceedings of Sessions Trial No. 224 of 2015 for the offence punishable under Sections 323, 324, 307, 504, 506 & 34 IPC, pending in the Court of learned Court of 1st Additional Sessions Judge, Rudrapur, District Udham Singh Nagar.

2. In support of compounding application (CRMA No. 279 of 2020), affidavits have been filed by Mohd. Rafi (applicant no.1), by Mukhtar Ali (respondent no. 2/ complainant) and by Ahsan Ali (injured). It has been submitted that the parties have amicably settled their disputes and the injured persons do not want to prosecute the accused applicants. Applicants, injured persons and respondent no. 2/complainant, are present in the court and they are duly identified by their respective counsels. They have also admitted the facts mentioned in the compounding application.

3. Learned State Counsel opposed the compounding application and contended that offence under Section 307 of IPC, for which the accused applicants are

facing trial, are non-compoundable offence and also submitted that the injuries are grievous in nature.

4. Learned Counsel for the accused applicants contended that PW6 Dr. Venkatesh Dwivedi has deposed that the injuries received by the injured may occur in road traffic accident, the injured received injuries which are 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 3 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, summoning order dated 02.08.2014 and the

entire proceedings of Sessions Trial No. 224 of 2015 for the offence punishable under Sections 323, 324, 307, 504, 506 & 34 IPC, pending in the Court of learned Court of 1st Additional Sessions Judge, Rudrapur, District Udham Singh Nagar, are hereby quashed, so far it relates to the present applicants only.

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