

(2010) 12 UK CK 0039

In the Uttarakhand High Court

Case No : Compounding Application No. 1482 of 2010 in Criminal Miscellaneous Application 1075 of 2010

Narendra Kumar and Others

APPELLANT

Vs

State of Uttarakhand and Another

RESPONDENT

Date of Decision : 28-12-2010

Acts Referred:

Penal Code, 1860 (IPC) — Section 120B, 420, 467, 468

Citation : (2010) 12 UK CK 0039

Hon'ble Judges : Nirmal Yadav, J

Bench : Single Bench

Judgement

Nirmal Yadav, J.—The Petitioners, Narendra Kumar and others, have filed this petition for quashing the chargesheet dated 16.12.2007 submitted against the Petitioners No. 1 to 3 and the chargesheet dated 18.2.2008 submitted against the Petitioner No. 4 under Sections 120B, 420, 467 & 468 of the Indian Penal Code, the summoning order dated 15.5.2008 and the entire proceedings of State v. Amit Sharma and Ors. Criminal Case No. 2389 of 2008, pending in the Court of Judicial Magistrate (C.B.I.), Dehradun.

2. Facts, in brief, are that the complainant Gauransh Uniyal lodged an FIR, bearing Case Crime No. 75/2007, stating that on account of a family settlement, the complainant and his father Girish Uniyal received some amount from other members of the family. Narendra Kumar, Petitioner No. 1, was also a signatory to the said compromise. Since it was in the knowledge of Narendra Kumar that the complainant had received a huge amount of money, he demanded some money from the complainant. On his refusal, Narendra Kumar threatened him that he will see to it that the complainant is sent to jail. Thereafter Narendra Kumar along other co-accused Ravindra Singh, Pradeep Bisht and Amit Sharma prepared a forged agreement/receipt. The said agreement was not registered and the complainant's signatures were forged by the Petitioners/accused on the said documents. It was alleged that all the four persons wanted to grab the

property of the complainant and thus, they have committed offence punishable u/s 120B, 420, 467 & 468 IPC. On the basis of the said FIR, all the four persons (Petitioners) were chargesheeted and then summoned vide order dated 15.5.2008.

3. The parties have filed a compounding application along with the affidavits of Narendra Kumar, the accused and Gauransh Uniyal, the complainant, stating that they have entered into a compromise and the dispute between the parties has amicably been settled and now, the complainant has no grievance or grudge against the accused persons and, therefore, he does not intend to continue the proceedings initiated in view of the FIR lodged by the complainant. Thus, no useful purpose would be served by continuing the proceedings as the same may be allowed to be compounded in view of the compromise entered into between the parties.

4. The complainant Gauransh Uniyal and the accused Narendra Kumar are present in the Court. Statement of Gauransh Uniyal has been recorded by the Registrar (Judicial) on the direction issued by this Court. In his statement under oath, the complainant Gauransh Uniyal has stated that he does not wish to proceed with the case as he has settled all the grievances with the Petitioners/accused.

5. I have heard learned Counsel for the parties.

6. Learned Counsel for the Petitioners submitted that the document, which is alleged to have been forged, was never given effect to. Now, the parties have also settled the dispute. Thus, learned Counsel for the Petitioners, by relying on the judgments of the Hon''ble Apex Court rendered in the case of Nikhil Merchant v. C.B.I. and Ors. AIR 2008 SCW 7501 and in the case of B.S. Joshi and Others Vs. State of Haryana and Another, , argued that apart from the offence u/s 420 IPC, which is compoundable with the permission of the Court, other offences u/s 120B, 467, 468 IPC should also be allowed to be compounded, though technically the offences u/s 120B, 467 & 468 IPC are not compoundable even with the permission of the Court.

7. Since the dispute has been settled between the parties and no useful purpose would be served if the proceedings are allowed to continue under the other offences besides the offence u/s 420 IPC. However, in view of the principle enunciated in B.S. Joshi's case, the offence may be allowed to be compounded as ultimately the parties would not like to prosecute the case under other offences on account of the matter having been settled between them. It has been specifically mentioned in the petition that the document, which is alleged to have been forged, was never acted upon nor was given effect to. Therefore, on an overall view of the facts as indicated hereinabove and keeping in mind, the decisions of the Hon''ble Apex Court in B.S. Joshi's case and Nikhil Merchant's case supra and the compromise arrived at between the parties, this Court is satisfied that this is a fit case where technicalities should not be allowed to stay

in the way of quashing the criminal proceedings. This Court is also of the view that continuance of the proceedings, after the compromise having been arrived at between the parties, would be a futile exercise.

8. For the reasons recorded above, the compounding application is allowed and the compromise entered into between the parties is accepted. Accordingly, the chargesheet dated 16.12.2007 submitted against the Petitioners No. 1 to 3 and the chargesheet dated 18.2.2008 submitted against the Petitioner No. 4 under Sections 120B, 420, 467 & 468 IPC, the summoning order dated 15.5.2008 and the entire proceedings of Criminal Case No. 2389 of 2008, State v. Amit Sharma and Ors., pending in the Court of Judicial Magistrate (C.B.I.), Dehradun are hereby quashed. The petition is disposed of accordingly.