
(2019) 08 UK CK 0160

In the Uttarakhand High Court

Case No : Criminal Miscellaneous Application (C-482) No. 1315 Of 2019

Rajat Srivastava And Another

APPELLANT

Vs

State Of Uttarakhand And Others

RESPONDENT

Date of Decision : 23-08-2019

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 482

Indian Penal Code, 1860 — Section 307, 323, 324, 452, 504, 506

Citation : (2019) 08 UK CK 0160

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

Bench : Single Bench

Advocate : K.S. Negi, Pramod Tiwari, S.R.S.

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. 1979 of 2019, is preferred to quash the charge sheet dated 11.09.2017, Cognizance/summoning order dated 22.02.2018 passed by the Civil Judge (Sr. Division)/Additional Chief Judicial Magistrate, Khatima, District Udham Singh Nagar in league with entire proceedings of Criminal Case No. 474 of 2018(F.I.R. No. 140 of 2017), "State vs. Om Prakash and another", under Sections 323, 324, 452, 504, 506 and 307 of IPC, registered at P.S. Nanakmatta, District Udham Singh Nagar, pending before the Court of Civil Judge (Sr. Division)/Additional Chief Judicial Magistrate, Khatima, District Udham Singh Nagar.

2. In the joint compounding application, duly supported by the affidavits of accused applicant no. 1 and the respondent nos. 2,3 & 4, it has been stated that parties have amicably settled their dispute and the victims do not want to prosecute the accused. Accused applicants Rajat Srivastava and Om Prakash as well as the respondents Kuljeet Kaur(informant), Pushpendra Singh(injured) and

Surendra(injured), 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 all the accused applicants and the respondents.

3. Learned State Counsel opposed the compounding application and contended that offences under Sections 504 and 506 IPC, 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 and not dangerous to 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 11.09.2017, Cognizance/summoning order dated 22.02.2018 passed by the Civil Judge (Sr. Division)/Additional Chief Judicial Magistrate, Khatima, District Udham Singh Nagar in league with entire proceedings of Criminal Case No. 474 of 2018(F.I.R. No. 140 of 2017), "State vs. Om Prakash and another", under Sections 323, 324, 452, 504, 506 and 307 of IPC, registered at P.S. Nanakmatta, District Udham Singh Nagar, pending before the Court of Civil Judge (Sr. Division)/Additional Chief Judicial Magistrate, Khatima, District Udham Singh Nagar are hereby quashed. Present criminal miscellaneous application stands disposed of accordingly. Inform the Court concerned accordingly.