

**(2020) 08 UK CK 0023**  
**In the Uttarakhand High Court**  
**Case No : Criminal Appeal No. 4 Of 2006**

Rajesh Pandey @ Raju Pandey

APPELLANT

Vs

State Of Uttarakhand

RESPONDENT

**Date of Decision :** 17-08-2020

**Acts Referred:**

Indian Penal Code, 1860 — Section 427, 429, 436  
Code Of Criminal Procedure, 1973 — Section 207, 313

**Citation :** (2020) 08 UK CK 0023

**Hon'ble Judges :** R.C. Khulbe, J

**Bench :** Single Bench

**Advocate :** Prabhat Bohra, A.K. Sah, Mamta Joshi, Prashant Joshi

**Final Decision :** Allowed

## Judgement

R.C. Khulbe, J

1. This criminal appeal, preferred by the appellant against the judgment and order dated 20.12.2005 passed by learned Sessions Judge, Pithoragarh in

S.T. No.06 of 2004, State vs. Rajesh Pandey @ Raju Pandey, whereby the Appellate Court convicted the appellant under Section 429 of IPC and

sentenced two yearsâ?? R.I. along with fine of Rs.3,000/- and five years; R.I. along with fine of Rs.10,000/- under Section 436 IPC.

2. Facts, to the limited extent necessary, are that the PW-2 Rakesh Pandey submitted information Ex. Ka-1 with P.S. Lohaghat on 30.06.1998.

Accordingly, Chick FIR Ex.Ka-7 was lodged with P.S. Lohaghat on 30.06.1998 against the present appellant under Sections 429, 427 and 436 of IPC.

After investigation, charge sheet Ex. Ka-10 was submitted against the appellant. Accordingly, cognizance was taken on 22.07.1999 by CJM,

Pithoragarh. The C.J.M. after supplying the copies as prescribed u/s 207 Cr.P.C.,

framed the Charges on 25.03.2004 under Sections 436, 427 and 429

IPC against the appellant, who pleaded not guilty and claimed to be tried. On this, the prosecution got examined PW1 Mohini Pandey (eye witness),

PW2 Rakesh Pandey (informant), PW3 Constable Bishan Dutt (who lodged the chick FIR with P.S. Lohaghat, PW4 Dr. Mahipat Singh Nayal (who

conducted the post mortem of animals Ex. Ka-4 to 7 and PW5 Sher Ram (Constable, who proved the charge sheet as secondary evidence).

3. Oral and documentary evidence was put to the accused u/s 313 Cr.P.C. In reply to which, he alleged the same to be false but no evidence in

defence was adduced. After hearing the parties, the Trial Court found that the prosecution has successfully proved the charge of offences punishable

under Sections 429 and 436 IPC against the appellant, he was convicted accordingly. After hearing on sentence, the he was sentenced as mentioned

in paragraph no.1 of this judgment. Aggrieved by the said judgment and order dated 20.12.2005, this appeal has been preferred.

4. Aggrieved by it, PW2 Rakesh Pandey was present before the Court on 9.1.2020 duly identified by his counsel. Appellant Rajesh Pandey was also

present in person before this Court on that day and duly identified by his counsel. Both (PW2 Rakesh Pandey and appellant Rajesh Pandey) submitted

that they have settled the dispute out of the Court and also seek to compound the offence punishable u/s 436 and 429 IPC. Appellant and PW2

Rakesh Pandey also filed their separate affidavits. It is also submitted that the informant and the aggrieved person have entered into a compromise;

now there are no differences between them and they are living peacefully.

5. The Honâ??ble Apex Court in Gyan Singh v. State of Gian Singh v. State of Punjab and another, (2013) 1 SCC (Cri) 160 ,has observed as

below:

â??The position that emerges from the above discussion can be summarised thus: the power of the High Court in quashing a criminal proceeding or

FIR or complaint in exercise of its inherent jurisdiction is distinct and different from the power given to a criminal court for compounding the offences

under Section 320 of the Code. Inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accord with the guideline

engrafted in such power viz; (i) to secure the ends of justice or (ii) to prevent abuse of the process of any Court. In what cases power to quash the

criminal proceeding or complaint or F.I.R may be exercised where the offender and victim have settled their dispute would depend on the facts and circumstances of each case and no category can be prescribed. However, before exercise of such power, the High Court must have due regard to the nature and gravity of the crime. Heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. cannot be fittingly quashed even though the victim or victim's family and the offender have settled the dispute. Such offences are not private in nature and have serious impact on society. Similarly, any compromise between the victim and offender in relation to the offences under special statutes like Prevention of Corruption Act or the offences committed by public servants while working in that capacity etc; cannot provide for any basis for quashing criminal proceedings involving such offences. But the criminal cases having overwhelmingly and pre-dominatingly civil flavour stand on different footing for the purposes of quashing, particularly the offences arising from commercial, financial, mercantile, civil, partnership or such like transactions or the offences arising out of matrimony relating to dowry, etc. or the family disputes where the wrong is basically private or personal in nature and the parties have resolved their entire dispute. In this category of cases, High Court may quash criminal proceedings if in its view, because of the compromise between the offender and victim, the possibility of conviction is remote and bleak and continuation of criminal case would put accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case despite full and complete settlement and compromise with the victim. In other words, the High Court must consider whether it would be unfair or contrary to the interest of justice to continue with the criminal proceeding or continuation of the criminal proceeding would tantamount to abuse of process of law despite settlement and compromise between the victim and wrongdoer and whether to secure the ends of justice, it is appropriate that criminal case is put to an end and if the answer to the above question(s) is in affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding.

6. Since the aggrieved person in the instant case has buried his differences amicably with the appellant, they are living peacefully together amicably, therefore, the aggrieved person should be permitted to compound the offence

punishable u/s 436 and 429 IPC against the appellant Rajesh Pandey in the interest of justice as well as in the interest of society. Consequently, criminal appeal is allowed and the order dated 20.12.2005 passed by the Sessions Judge, Pithoragarh in S.T. No.6 of 2004, State v. Rajesh Pandey @ Raju Pandey, as also the conviction and sentence awarded to the appellant are hereby set aside.

7. His bail bonds are cancelled and sureties stand discharged.