

IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

Compounding Application No.1151 of 2012

IN

**(1) Criminal Misc. Application No.179 of 2009
(U/s 482 Cr.P.C.)**

Sarfraj

..... Petitioner

Versus

State and another

..... Respondents

Mr. Manish Arora, Advocate, for the petitioner

Mr. D.K. Sharma, Dy. Advocate General (Crl.) for the State

Mr. Ajay Veer Pundir, Advocate, for the private respondent no.2

(2) Criminal Misc. Application No.895 of 2007

Shashi Kant Tyagi

..... Petitioner

Versus

Judicial Magistrate, Roorkee and another

..... Respondents

Mr. Ajay Veer Pundir, Advocate, for the petitioner

Mr. D.K. Sharma, Dy. Advocate General (Crl.) for the State

Mr. Manish Arora, Advocate, for the private respondent no.2

Hon'ble Servesh Kumar Gupta , J.

Power filed today in the Court by Sri Manish Arora, Advocate, on behalf of respondent no.2 -Sarfaraz in petition no.895/2007 is kept with the records.

Mr. Sarfaraz and Mr. Shashi Kant Tyagi both are present in person being identified by their respective counsel.

The genesis of the dispute between the two, as it transpires from the first information report lodged on 6.10.2007, is that co-accused Anurag Saxena, posing

himself to be a representative of certain reputed company, offered Mr. Shashi Kant Tyagi to purchase a Santro Car by securing a loan from the company. The said offer was acceded to by Mr. Tyagi on which he was sanctioned a car loan, and in lieu thereof, he issued a number of cheques towards the repayment which were made available to him by his banker. Later on, the discord started between the two, thus Mr. Sarfaraz (another co-accused) who was an associate of Mr. Anurag Saxena, filed a complaint case no.2744/2007 under the Negotiable Instruments Act before the court of Judicial Magistrate, Roorkee, wherein the cognizance was taken by learned Magistrate on 16.10.2007 asking Mr. Shashi Kant Tyagi to face trial u/s 138 of the Negotiable Instruments Act. Assailing the said order of cognizance, C482 petition no.895 of 2007 has been filed by Mr. Tyagi.

When Mr. Shashi Kant Tyagi came to know about the institution of the said complaint, he lodged an FIR on 6.10.2007 against Mr. Anurag Saxena and Mr. Sarfaraz for the offences u/s 406, 420 and 511 IPC which culminated into the submission of a chargesheet against them, whereby the learned Magistrate has taken cognizance and directed the accused to face trial. Assailing the same, C482 petition no.179 of 2009 has been filed by Mr. Sarfaraz.

Learned counsel for both the parties have submitted before the Court that now the parties have entered into a compromise and the terms of composition have also been filed before this Court by way of compounding application no.1151 of 2012. As per the said application, the parties

have settled the dispute amicably regarding the monetary exchange. The Court thus, feels that in view of the compromise arrived at between them, nothing fruitful would be achieved if the trial is permitted to be proceeded against Mr. Sarfaraz and Mr. Shashi Kant Tyagi before the court below.

Thus, in view of what has been stated above, the Court accepts the compounding application and quashes the chargesheet, as also the entire proceedings of criminal case no.1600 of 2008, *State Vs. Anurag Saxena and another*, pending in the court of Judicial Magistrate, Roorkee, District Haridwar. C482 petition no.179 of 2009 is allowed accordingly.

At the same time, when this Court has quashed the said chargesheet, there is no reason to permit Mr. Sarfaraz to proceed with his complaint case no.2744 of 2007 against Mr. Shashi Kant Tyagi. Thus, C482 petition no.895 of 2007 moved by Mr. Tyagi is also allowed. The proceedings of the said complaint case, along with the order of cognizance dated 16.10.2007 passed by the Judicial Magistrate, Roorkee, are also hereby quashed.

(Servesh Kumar Gupta, J.)

28.09.2012
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