

IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

Criminal Misc. Application (C-482) No. 1024 of 2014

Mohd. Waseem and others Applicants

versus

State of Uttarakhand and others Respondent

Mr. T.A. Khan, Sr. Advocate assisted by Mr. Aditya Kumar Arya,
Advocate for the applicants.

Mr. K.S. Rawal and Ms. Shiwali Joshi, Brief Holders for the respondent
State.

Mr. Nalin S. Saun, Advocate for respondent no. 3.

U.C. Dhyani, J.(Oral)

A charge-sheet was submitted against the applicants for the offences punishable under Sections 323, 504, 506, 452 of IPC.

2) A compromise / compounding application, being CLMA no. 1299 of 2014, is filed on behalf of the parties to indicate that they have buried their differences and have resolved their dispute amicably. Said application is supported by affidavits of Mohd. Waseem (applicant no. 1 herein) and Mohd. Anwar (respondent no. 3 herein). Affidavits has also been filed by Mohd. Mujeeb, Sherub and Rihan (all applicants).

3) Mohd. Anwar (respondent no. 3 herein) is present in person before the Court, duly identified by his counsel Mr. Nalin S. Saun, Advocate, who stated that he alongwith his mother has compounded the offences against the applicants. The matter was settled amicably with the

intervention of some elderly persons of the community on 19.04.2014 in the presence of witnesses. Compromise (Annexure no. 4) has been brought on record to indicate the same. Respondent no. 3 seeks permission of this Court to permit him and his mother to compound the offences alleged against the applicants. Applicant Mohd. Waseem is also present in person before the Court, duly identified by his counsel Mr. Aditya Kumar Arya.

4) It has been mentioned in the application under Section 482 of Cr.P.C. that no *maar peet* took place inside the house. Offences punishable under Sections 323, 504, 506 of IPC are compoundable offences within the scheme of Section 320 of Cr.P.C. Only the offence punishable under Section 452 of IPC is non-compoundable offence.

5) The only question which is left for consideration of this Court is whether the victims (respondent no. 3 herein alongwith his mother) should be permitted to compound such offences against the accused-applicants or not?

6) It will be useful to reproduce the law laid down by Hon'ble Apex Court in **Gian Singh vs. State of Punjab and another, (2013) 1 SCC (Cri) 160**, wherein it was observed, in the context of such cases, as under:

“The position that emerges from the above discussion can be summarized 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 of 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-dominantly 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 proceedings 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.”

7) Since the victims (respondent no. 3 along with his mother) have settled the dispute amicably with the accused-applicants, therefore, they should be permitted to compound such offences against the accused-applicants to secure the ends of justice and to maintain peace in the society.

8) Compounding application no. 1299 of 2014 is allowed. Consequently, the application under Section 482 of Cr.P.C. is also allowed. Proceedings of criminal case no. 1455 of 2014, under Sections 323, 504, 506, 452 of IPC, relating to police station, Haldwani, District Nainital, pending in the Court of Addl. Chief Judicial Magistrate, Haldwani are hereby set aside and quashed on the basis of compromise arrived at between the parties.

(U.C. Dhyani, J.)

Dt. August 29, 2014.

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