

9Sl. No	Date	Office Notes, reports, orders or proceedings or directions and Registrar's order with Signatures	COURT'S OR JUDGES'S ORDERS
			IA No.1 of 2023 (Compounding Application) With C482 No.1552 of 2023 C482 No.1551 of 2023 <u>Hon'ble Sharad Kumar Sharma, J.</u> Ms. Suraiyya Naz, Advocate, holding brief of Mr. Lalit Sharma, Advocate, for the applicant in C482 No.1552 of 2023. Mr. Azmeen, Advocate, for the applicant in C482 No.1551 of 2023. Mr. B.C. Joshi, Brief Holder, for the State of Uttarakhand. These are the two C482 applications, which arise out of the same incident as respectively referred to in the FIRs, which are cross FIRs, registered by the respective complainants as against each other, who are the real brothers. As per the FIR No.205, dated 30.06.2022, as it was registered by one of the brothers, namely, Sri Hammad Ahmad, was against the named accused persons with regards to the incident, which was alleged to have chanced in the night of 28.06.2022, where it was contended by the complainant that the named accused persons therein, who were the family members of the complainant were involved in commission of the offences under sections 147, 323, 427, 452 and 506 of IPC. The matter was investigated and the Chargesheet No.295 of 2022, has been submitted by the Investigating Officer. Upon which, the cognizance have been taken by the court of ACJM, Haldwani, District Nainital, resulting into the registration of the Criminal Case No.476 of 2022, "State Vs. Rashad Ahmad and others". This C482 No.1552 of 2023, is accompanied with the compounding application contending thereof that now the parties have resolved their dispute, and more particularly,

			because of the fact that they belong to the same family, and the complainants of both the C482 applications are the real brothers, they have settled their dispute in terms, which has been referred to in the compounding application. The compounding application is being signed by all the parties, and the contents of which has also been verified by their respective counsels representing their cause. The parties to the compounding application had submitted that since the complainants are the real brothers and the accused persons are the family members, they have settled their dispute amicably as referred to in paragraphs 8 and 9 of the compounding application. Hence, based on which, they have sought a composition of the offence. In C482 No.1552 of 2023, one of the offences being the offence under section 452 of IPC is not compoundable under section 320 of CrPC, but looking to the totality of the offence has to be taken into consideration while exercising my powers under section 482 of CrPC, because the nature of the offence which has been complaint of, it has to be read in consonance to the other offences, the commission of the offence under section 452 of IPC, exclusively would be inevitable, but then it was a dispute between the family members, which was exclusively a private dispute, and it would not be an offence, where the applicants could be said to have barged into the residence of the third person to constitute an offence under section 452 of IPC, which is not compoundable. In the connected C482 No.1551 of 2023, the other real brother Sri Rashad Ahmad Siddiqui, is the complainant, and as a consequence thereto, when the FIR No.204, dated 30.06.2022, was registered, which was a cross-case, with regards to the same incident, which has chanced amongst the family members. The offence initially complaint of in the FIR was under sections 323 and 506 of IPC, but however later on upon culmination of the
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		investigation and upon submission of the Chargesheet No.296 of 2022, dated 23.11.2022, the Investigating Officer has introduced the offence under section 324 of IPC, on which the cognizance have been taken by the court of Judicial Magistrate, 1st, Haldwani, District Nainital, by an order dated 23.01.2023. This C482 application too is accompanied with the compounding application, and almost on the similar grounds as referred to in the compounding application filed in C482 No.1552 of 2023. The concern here in the instant C482 application would be an offence under section 324 of IPC, which is not compoundable. The same is opposed by the Government Advocate by filing an objection on the ground that as per the observations made in the chargesheet submitted, the Doctor has recorded his statement under section 161 of CrPC, the same has been made as part of the record of the objection filed by the Government Advocate, wherein, the Doctor who had examined the injured had observed that all the injuries suffered by the victim were simple in nature and they were not caused by any sharp edged weapon or any blunt object. Though there is a minor contradiction in the statement of the Doctor in the medical report submitted by the Doctor. But in order to buy harmony for the family, that minor contradiction at this stage while considering the compounding application has to be over looked by the court exercising the inherent powers under section 482 of CrPC. Exclusively, considering the fact that since it is a dispute between the family of the two real brothers because of the minor altercation which has taken place in the night of 29.06.2022, and more particularly, the grounds taken in the compounding application, that they have settled their dispute and even as per the statement recorded by the parties to the C482 applications before this Court, who are present in person identified by their respective counsels
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			supports the compounding application. The C482 applications would stand disposed of and as a consequence thereto the proceedings of the Criminal Case No.476 of 2022, “State Vs. Rashad Ahmad and others”, which is a subject matter of the C482 No.1552 of 2023, and the proceedings of the Criminal Case No.470 of 2023, “State Vs. Hammad Ahmad and others”, which is a subject matter of the C482 No.1551 of 2023, would hereby stand quashed. It is hope and trusted that the parties since they belong to the same family clan, in future they will maintain harmony and tranquillity amongst themselves, and they will not engage themselves in such type of an unwelcoming criminal activities. Subject to the aforesaid, the C482 applications are allowed. (Sharad Kumar Sharma, J.) 01.11.2023 NR
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