

SL. No	Date	Office Notes, reports, orders or proceedings or directions and Registrar's order with Signatures	COURT'S OR JUDGES'S ORDERS
			C482 No.1714 of 2023 With IA/1/2023 (Stay Application) IA/2/2023 (Compounding Application) <u>Hon'ble Sharad Kumar Sharma, J.</u> Mr. Gopal K. Verma, learned counsel for the applicant. Mr. V.K. Gemini, learned Deputy Advocate General for the State. Mr. Kailash Chandra, learned counsel for the private respondent. The instant C482 Application is accompanied with the compounding application, where the applicant has sought a composition of offences of Criminal Case No.3588 of 2019, being the offences under Sections 323, 385, 506/34 of the IPC. Based on which, the compounding application was pressed by the learned counsel for the applicant, who submits, that the compounding application is required to be considered, in the light of the judgment rendered on a compounding application, in relation to the co-accused persons as it was rendered by the Co-ordinate Bench, where the criminal case, as referred to hereinabove, has been quashed by the Co-ordinate Bench,

		based upon the provisions contained under Section 320 of the Cr.P.C. The Government Advocate opposes the compounding application, on the ground, that the parity, as it has been sought for by the learned counsel for the applicant from C482 Application No.800 of 2020, “State Vs. Umesh Sharma and Others” whereby the criminal proceeding against co-accused Jitendra Singh and Vikram Singh, as it has been quashed by this Court vide its judgment dated 12.04.2021, will not be available to the present applicant, for the reason being, that in the chargesheet, it has been observed that the present applicant is carrying a history of 14 cases. Learned counsel for the applicant argues that in most of the offences, which are shown in the history chart, he has been either bailed out or acquitted; but what impact would the release of the applicant on bail in those cases, which are shown by way of a history against his name in the chargesheet have, is altogether a different perspective, for the reason being, that the applicant will not have the parity with the co-accused Jitendra and Vikram, as their case stands on a different footing altogether and, more importantly, that
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		the applicant has not been fair to the Court by specifically disclosing in his pleading that he is having a criminal history. The parity on that basis cannot be claimed by the applicant, for the reason being, that being granted bail or having been acquitted in those cases does not mean a complete exoneration, because for the purpose of exercising the inherent powers, the Court will have to see mental bent of mind of an applicant of engaging himself in recurring criminal proceedings. That too, particularly, when the fact has been concealed from the Court. Learned counsel for the applicant has made a prayer that he may be permitted to rectify the said lacuna by filing a supplementary affidavit. But the said prayer made, is denied, for the reason being, that the presumption would be that when he filed the C482 Application, he had the knowledge of history of cases against him. He ought to have disclosed the said facts in the C482 Application, which has not been done and rather, to the contrary, the argument has preceded simplicitor, on the premise, that since the offence has been compounded in relation to the other co-accused persons, who
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			were contended to be standing on a different footing than that of the present applicant, the matter may be compounded. The parity is not available to the person, who is not fair to the Court and that too in the changed circumstances where he is carrying a criminal history of as many as 14 cases. Since the applicant is not fair to the Court in his pleading, this Court declines to exercise its inherent powers under Section 482 of the Cr.P.C. The present C482 Application is, accordingly, rejected, along with the compounding application. (Sharad Kumar Sharma, J.) 29.08.2023 Sukhbant
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