

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.1781 of 2023 With IA/1/2023 (Compounding Application) And C482 No.1782 of 2023 With IA/2/2023 (Compounding Application) <u>Hon'ble Sharad Kumar Sharma, J.</u> Mr. Amit Kapri, learned counsel for applicant. Mr. V.K. Gemini, learned Deputy Advocate General for the State. Ms. Vijeta Mahara and Mr. Manoj Bhatt, learned counsel for the private respondent. These are two C482 Applications, which have been listed along with the respective compounding applications praying for composition of offences under Sections 420, 406, 506 of the IPC and Section 3 of the U.P. I.D. Act. In C482 No.1782 of 2023, the offences, which have been sought to be compounded, are offences under Sections 420, 504, 506, 120B of the IPC. These C482 Applications are respectively arising out of FIR No.109 of 2021 and FIR No.55 of 2021, which, as a consequence of submission of the chargesheet on 14.06.2021 and 04.01.2022 respectively Criminal Case No.1342 of 2021, "State Vs. Dharmesh Joshi", and Criminal Case No.2622 of 2022, "State Vs. Dharmesh Joshi and Others", stood instituted before the Court of the Chief Judicial Magistrate, Pithoragarh.

			Apparently, the offences for which the applicant has been summoned by the trial Court, these seem to be compoundable under Section 320 of the Cr.P.C. and, particularly, if the grounds taken for the purpose of composition of offences is concerned, it rather amounts to an admission of guilt, as it has been complained of in the FIR because the applicant has submitted that, out of the total money, which he has falsely taken by him from the respondent, he has returned part of it and the balance is assured to be paid in future. But, the C482 Application at hand is not an isolated incident, which could be forgiven by the Court, while exercising its inherent power under Section 482 of the Cr.P.C. and, particularly, when in the wider public interest, is required to be considered by this Court so that it may lay a wrong exemplar and a wrong precedent for the society as a deterrent not to engage themselves in such type of activities of duping the innocent persons of their valuable money. As per the FIR, being FIR No.109 of 2021, it is not only respondent no.2, who has been duped with the money by the present applicant under the false assurance, but rather it shows that as many as there are seven females, who were duped by the present applicant along with his accomplices, who are five in number. Similarly, in the connected C482 Application too where FIR No.55 of 2021 dated 08.11.221 is the basis of the initiation of the proceedings, it was the
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		FIR registered by yet again by another female, who was duped of Rs.5.00 lakh, on the pretext of a contribution to be made with regards to the alleged K.K. Agency, which was said to have been run and managed by the accused/ applicant herein. This Court is of the view that the person like applicant and the co-accused persons, they are parasites and menace for the society and their nefarious activities are required to be curbed by the Court of law. They cannot be permitted to widen their tentacles of duping innocent persons of the hills by falsely taking money from them under false assurance. This aspect of having falsely taken the money stands fortified from the contents of the compounding application itself where the applicant admits, that the victim has been paid part of the money, which has been admittedly taken by him and the balance was assured to be paid within the certain time frame. The relevant paragraphs in the two C482 Applications, which are the basis of the composition of the offences are extracted hereunder:- <i>“3. That as per the compromise took place between Applicant and Respondent Number 2 that earlier Respondent No.2 has received a sum of Rs.3,74,000/- now the applicant is paying Rs.2,00,000/- and the applicant under takes that the rest of the amount Rs.2,76,000/- will be paid within six months”</i> <i>“6. That as per the compromise took place between Applicant and Victim is that earlier Victim has received a sum of</i>
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Rs.40,000/- now the applicant is paying Rs.50,000/- and the applicant under takes that the rest of the amount Rs.4,10,000/- will be paid within ten months.”

The contents of the compounding application, which has been extracted hereinabove where the applicant is shown to have returned part of the money, with an assurance to remit the balance amount, amounts to be an admission of guilt.

In view of the aforesaid and, particularly, looking to the wider interest of the society, which this Court owes a responsibility towards the society too, to ensure safety to the citizens of the State, is not inclined to compound the offence, where innocent females have been duped of their valuables by the present applicant and his accomplices, as named in the FIR.

Learned counsel for the respondent has expressed that she would be supporting the compounding application, because her major interest was that the balance amount, which has been assured to be paid by the applicant, as it has been referred to in paragraph no.3 and paragraph no.6, as mentioned above that may go in limbo because of the fact that the applicant will have to surrender and then they would not be able to recover the money.

As far as this apprehension expressed by the learned counsel for the respondent is concerned, that is overruled because the Court, which is seized with the proceedings of the criminal case, would also simultaneously ensure that, in view of the

			admitted guilt, in the light of paragraph no.3 and paragraph no.6 of the compounding application, the amount thus ensured to be paid by the applicant would be ensured to be returned back by the present applicant through the Court during the course of trial itself when it is being conducted by the respective trial Court. Owing to the above, this Court is not inclined to entertain the present C482 Application, the same is, accordingly, rejected. So, would the compounding application is also laid to rest. (Sharad Kumar Sharma, J.) 06.09.2023 Sukhbant
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