

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.2048 of 2023 With IA/1/2023 (Compounding Application) <u>Hon'ble Sharad Kumar Sharma, J.</u> Mr. Rajesh Joshi, learned counsel for the applicant. Mr. V.K. Gemini, learned Deputy Advocate General for the State. Mr. D.K. Bankoti, learned counsel for respondent no.2. This C482 Application has been preferred for composition of offences under Sections 279 and 338 of the IPC. The composition has been sought at the stage after the concurrent judgments of convictions, as it has been rendered on 23.09.2023 by the Court of Additional District and Sessions Judge, Vikas Nagar, District Dehradun in Criminal Appeal No.19 of 2022, "Sagar Vs. State of Uttarakhand and another" which had ultimately affirmed the judgment of conviction dated 20.08.2022, as it was passed by the Judicial Magistrate, Vikas Nagar, District Dehradun in Criminal Case No.482 of 2013, "State of Uttarakhand Vs. Sagar". The parties are present in person and, particularly, the complainant, who represents the minor victim, who has made a statement that parties have entered into a settlement and,

		therefore, he prays that in terms of the settlement, the conviction of the present applicant as inflicted upon him by the concurrent judgments, as referred to in the C482 Application may be compounded.
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In the light of the provisions contained under Section 320(5) of the Cr.P.C., as well as, in the light of the judgment rendered by the Hon'ble Apex court, as reported in **(2014) 15 SCC 235, Gold Quest International Private Limited Vs. State of Tamil Nadu and Others**, the Hon'ble Apex Court in its paragraph no.8 of the said judgment has observed, that there is no absolute bar, as such, while the Court exercising power under Article 226 of the Constitution of India or under Section 482 jurisdiction to compound the offences, even after rendering the judgment of conviction.

But the composition has been permitted only with regards to the petty offences and not in relation to the offences which are heinous in nature and against the society, having a vital bearing on the society.

The relevant observations has been made in paragraph no.8 of the said judgment, which is extracted hereunder:-

***"8.** In view of the principle laid down by this Court in the aforesaid cases, we are of the view that in the disputes which are substantially matrimonial in nature, or the civil property disputes with criminal facets, if the parties have entered into settlement, and it has become clear that there are no chances of conviction, there is no illegality in quashing the*

proceedings under Section 482 CrPC read with Article 226 of the Constitution. However, the same would not apply where the nature of offence is very serious like rape, murder, robbery, dacoity, cases under the Prevention of Corruption Act, cases under the Narcotic Drugs and Psychotropic Substances Act and other similar kind of offences in which punishment of life imprisonment or death can be awarded. After considering the facts and circumstances of the present case, we are of the view that the learned Single Judge did not commit any error of law in quashing the FIR after not only the complainant and the appellant settled their money dispute but also the other alleged sufferers entered into an agreement with the appellant, and as such, they too settled their claims.”

The other precautions, which has been taken by the Hon’ble Apex Court, as to under which circumstances where a final judgment of conviction has been rendered, the Hon’ble Apex Court in Criminal Appeal No.1489 of 2012, “Ramgopal & Anr. Vs. the State of Madhya Pradesh” dated 29.09.2021, has widely observed, that for the purpose of composition of offences, should be based on the compromise, after the judgment of conviction, the Court has had to take a precaution that the terms of settlement has to be placed before the Court for its verification in order to fortify the facts as to whether the offences, which have been committed and later sought to be compounded, have been, admittedly, sought to be compounded by the victim, the complainant and the accused/convict person. The relevant paragraph no.22 of the aforesaid judgment is extracted as under:-

“22. *In so far as this appeal is concerned, we note that even though the Learned Counsel(s) for the*

			<i>Appellants and the Complainant-victim have jointly stated before this Court that the parties have settled their dispute(s), but no formal settlement has either been brought on record nor has it been even clarified that such a deed of settlement has been recorded. Admittedly, the factum of compromise/settlement between the parties has been raised for the first time before this Court. In the absence of any proof of settlement, we find ourselves hard-pressed to take cognizance of the asseverated compromise. We, therefore, direct both the Appellants as well as the complainant-victim to appear before the Chief Judicial Magistrate, Shimoga and submit their settlement, if any, in writing within a period of three months. The C.J.M. shall send a Report to this Court immediately, recording his satisfaction with regard to the genuineness of the compromise. In the event, the said Report would reflect a bona-fide settlement between the parties, the present appeal shall also be deemed to have been disposed of in same terms as Criminal Appeal No. 1489 of 2012, referred to above. Further, the incontrovertible corollary in such event would be that the Appellants shall be treated to have been acquitted of all the charged offences for all intents and purposes. On the other hand, if no formal settlement is placed before C.J.M., Shimoga within the stipulated period or the Report reflects to the contrary, the criminal appeal shall stand as dismissed as no other substantial question of law is raised or involved in this appeal.”</i>
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But this case would be slightly at a distinct pedestal, because they have approached the High Court in a jurisdiction under Section 482 of the Cr.P.C.

The directives issued therein for verification of the terms of settlement by the Court, in order to attach justification to it, for compounding the offences, which are petty in nature. The said directive could be complied with by the Hon’ble High Court too while considering the terms of settlement, which is the foundation of compounding the offences.

		Learned counsel for the applicant during the course of hearing has supplied the copy of the supplementary affidavit, which is permitted to be taken on record, in which, he has annexed the copy of the settlement, which has been arrived at between the parties, which has been duly signed by both the parties. As the parties are appearing before this Court, this Court has verified the contents of the compromise application and the contents of the compromise after reading the same to the parties, who have accepted its contents before the Court, in view of the fact, as expressed therein that the applicant has already paid the compensation towards the expenditure, which was incurred in getting the treatment of the injured Vanse Gupta, the complainant is open to settle the dispute. The aforesaid aspect about receipt of the compensation is not an aspect which had been denied by the complainant / respondent no.2. In view of the said compromise, which has been taken on record, it satisfies the directives given in paragraph no.22 of the judgment of Ramgopal & Anr.(supra). In view of the aforesaid, since the C482 Application has been preferred for by invoking the inherent jurisdiction to compound the offences after the judgment of the Appellate Court of conviction, this Court is of the view, that even after the judgment of conviction, since there is no
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		legal embargo, as such, even not created by Section 320(5) of the Cr.P.C. or any of the judgments as referred to hereinabove, the C482 Application would stand disposed of. As a consequence thereto, the judgments of conviction, as it has been referred to in the relief clause of the C482 Application, would hereby stand quashed and the applicant would be treated to have been acquitted, in the light of the provisions contained under Section 320(5) of the Cr.P.C., particularly, in the context of the directives given in paragraph no.22 of the judgment of the Hon'ble Apex Court as rendered in the matter of Ramgopal & Anr.(supra). Subject to the aforesaid, the judgments of conviction are hereby quashed. The entire proceedings would stand settled and quashed, in terms of the settlement, as it has been supplied by the learned counsel for the applicant, which has been duly signed by both the parties, which will constitute as to be the basis of the decision of this C482 Application. (Sharad Kumar Sharma, J.) 19.10.2023 Sukhbant
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