

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.01 of 2023 (Compounding Application) With C482 No.2064 of 2023 <u>Hon'ble Sharad Kumar Sharma, J.</u> Mrs. Anjali Bhargava, Advocate, for the applicant. Mr. B.C. Joshi, Brief Holder, for the State of Uttarakhand. Mr. Anurag Bisaria, Advocate, for the respondent. This case is being considered under the mark distinction as that to, in relation to the other cases for the similar offences. The present applicant, who was a juvenile, on the date of the commission of the offence has been summoned by an order dated 08.08.2022, by the court of Principal Magistrate, Juvenile Justice Board, Pithoragarh in Sessions Trial No.24 of 2022, "State Vs. Karan Kumar", for being tried for the offences under section 376 of IPC, and under section 5 (1)/6 of the POCSO Act. The challenge has been given to the proceedings, apart from the chargesheet and the summoning order dated 02.08.2022 and also dated 08.08.2022 respectively. The C482 application is supported with the compounding application, which has been duly signed by the guardians of the victim and the accused applicant, wherein, they have contended that owing to the subsequent development, which has place, and after that the victim has realized the mistake, consequently the two families have settled together their dispute, and they want the offence to be compounded. In support of the composition application, the learned counsel for the applicant has addressed the court on the

			statement recorded of the victim under section 164 of CrPC, for the purposes to elucidate that no offence under section 376 of IPC, is said to have been made out, because according to the statement of the victim. But this Court was not very sure to consider the said aspect. Hence, this Court has called the medical report of the Doctor, whose name finds reference in the chargesheet, the same has been supplied by the Government Advocate and in accordance with the medical report submitted by the Doctor Raini Pangti, she has opined that according to the pathological examination report of the vaginal smear, there were no dead or alive spermatozoa found, coupled with the fact that hymen was shown to be torn. The Doctor has not opined as to whether any forceful physical assault was made and if made then when! On scrutiny of the medical legal report as submitted by the Government Advocate no definite opinion of section 376 of IPC could be made out, if it is read along with the statement recorded under section 164 of CrPC, which was supported by the victim and her guardian, who were present yesterday and had recorded their statement before this Court. But in order to just cross check the same, the aforesaid record was summoned. The offence is said to have been committed by the present applicant, who is a minor and owing to the nature of affection, which he had for the victim/respondent no.3. There are at times that the court has to carve out an exception and particularly from the wider social prospective, that in case if the applicant or the victim/respondent no.3, are forced to face the proceedings of the Sessions Trial No.24 of 2022, “State Vs. Karan Kumar”, apart from the fact that it would be embarrassing to the family it may have a very adverse bearing to the future personal life of the applicant and the victim. Since the parties have settled their dispute, and as they have referred to in the
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			compounding application, that they will be separating themselves, and will not be indulging in any such future offence, the Court has to logically consider the compounding application. Consequently, the compounding application would stand allowed, and as a result thereto, the proceedings of the Sessions Trial No.24 of 2022, “State Vs. Karan Kumar”, pending consideration before Juvenile Justice Board, Pithoragarh, would hereby stand quashed. (Sharad Kumar Sharma, J.) 18.10.2023 NR
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