

9Sl. No	Date	Office Notes, reports, orders or proceedings or directions and Registrar's order with Signatures	COURT'S OR JUDGES'S ORDERS
			C482 No.2145 of 2023 <u>Hon'ble Sharad Kumar Sharma, J.</u> Mr. Lalit Sharma, Advocate, for the applicants. Mr. V.K. Jemini, DAG for the State of Uttarakhand. Mr. P.C. Pethshali, Advocate, for the respondent. The applicants by virtue of an order dated 23.06.2023, as it has been passed by the court of ACJM, Haldwani, District Nainital, applicants had been summoned to be tried for the offences under sections 456, 336 and 427 to be read with section 34 of the IPC. There could be a wider debate, as to whether the offence under section 456 of IPC, could at all be made out and the act complaint of would be a "house trespass", in the light of the provisions contained under the IPC defining as to how the act of "house trespass" has to be dealt with as provided under section 442 to be read with section 445 of IPC. The controversy still prevailing as per the observations made in the chargesheet, that the vehicle, where the device was implanted it was parked in the residence. Parking in the residence whether it could be a house trespass or not; and whether the act of implantation of the device in the car would first entail an act of house breaking and then planting of a device. Though could be a question to be dealt with by this Court, but owing to the fact that all the offences for which the summons have been issued they carry a sentence of less than seven years. Coupled with the fact that the parties have compounded their offence owing to the terms and conditions of their settlement as finds place on record as Annexure No.4, which has

			been duly signed by all the parties, as well as the compounding application too, where they have settled their dispute outside the court and they have prayed for that the matter may be compounded, despite of the fact that the offence under sections 456 and 336 of the IPC, are not compoundable under section 320 of the CrPC. Learned Government Advocate opposes the compounding application on the ground that an apparent offence under section 456 of IPC, is made out because the act of the implantation of the device which had later on caught fire when the car was put to motion, that in itself will constitute to be an offence under section 456 of IPC, if it is to be read with house trespass as defined under section 442. But looking to the fact that all the offences carry a sentence which are less than seven years, and more particularly, because they have entered into a compromise, the fact of which has been admitted by the parties to the proceedings, who are participating through video conferencing, and have recorded their statement supporting the agreement and the compounding application. The compounding application would stand allowed, and as a consequence thereto, the proceedings of this C482 application would closed, resulting into quashing of the proceedings of the Criminal Case No.2542 of 2023, “State Vs. Amit Rana and another”, pending consideration before the court of Judicial Magistrate, 1st Haldwani, District Nainital. (Sharad Kumar Sharma, J.) 02.11.2023 NR
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