

HIGH COURT OF UTTARAKHAND AT NAINITAL

Hon'ble Justice Sri Rakesh Thapliyal

27th JUNE, 2024

Compounding Application No. 1 of 2023

In

Criminal Misc. Application No. 2004 of 2023

Mohd. Sultan and others Applicants

Vs.

State of Uttarakhand and Others Respondents

Counsel for the applicants:
Counsel for the respondents:

Mr. Bilal Ahmed, learned counsel
Mr. V.S. Pal, learned AGA, along with
Mr. Akshay Latwal, learned Brief
Holder for the State.

Counsel for the respondent Nos.2 and 3

Mr. Mohd. Umar, learned counsel

Upon hearing the learned Counsel, the Court made the following Judgment:

(Per Mr. Rakesh Thapliyal, J.)

1. The present C482 application has been moved along with the compounding application i.e. IA No.1 of 2023, for quashing of the impugned charge sheet/summoning order and the entire proceedings of Criminal Case No.860 of 2023 (arising out of Case Crime No.195 of 2023) under Sections 147, 148, 149, 323, 308, 504 and 506 IPC, State Vs. Sultan and Others, pending in the court of Additional Chief Judicial Magistrate, Laksar, District Haridwar, which is supported with the affidavits of the applicants and the private respondents.

2. All the applicants and the private respondents are present before this Court and they are duly identified by their respective counsels. This Court interacted with the applicants and the private respondents. The private

respondents submit that the victim, due to bashing his head towards the wall, sustained injuries.

3. This Court perused the injury report, which is annexed at *Page No.29*, which is of Community Health Centre, Laksar, District Haridwar, in which the opinion of the Doctor is as hereunder:-

“Need radiological opinion for the nature of injury and caused by hard and blunt object duration-fresh.”

4. The counter affidavit has also been filed by the State and in the counter affidavit, a supplementary report is also enclosed, which is also from the Community Health Centre, Laksar, District Haridwar. The injured was referred to AIIMS, Rishikesh, in respect of injury no.1, which is grievous in nature and dangerous to life.

5. Present compounding application has been moved with this contention that the applicants are neighbours and both the parties have settled their dispute and the complainant does not want to pursue the impugned proceedings. In the affidavit filed by the parties same contention has been raised.

6. Counter affidavit to the compounding application has been filed by the State and it is contended in the counter-affidavit that while carrying out the investigation by the investigating officer, statement of complainant/respondent no.2 Mohd. Raza (complainant), Usman (Injured), Sameer (eye witness) and Shameem (eye witness) were recorded and all of them have fully supported the prosecution case. Statements have been enclosed in the counter-affidavit and this Court also perused the same.

7. It is further contended in the counter-affidavit that during the investigation, statement of Doctor Sanjay Tyagi

and Doctor Neeraj (who medically examined the injured, Usman) were also recorded under Section 161 Cr.P.C and also filed supplementary medical report of Usman and after collecting cogent and credible evidence, charge sheet was filed and after considering the entire material available on record, the learned trial Court took cognizance on the charge-sheet and summoned the accused persons.

8. The statements of Doctor Sanjay Tyagi and Doctor Neeraj (who medically examined the injured, Usman) are also enclosed in the Counter-affidavit.

9. In the counter-affidavit, particularly, in Para 9, serious objections have been raised to the compounding application by saying that offences punishable under Sections 147, 148, 149 and 308 IPC are not compoundable under Section 320 Cr.P.C. It is further contended in the counter-affidavit that consent of the complainant Mohd. Raza as well as injured Usman are of no consequence and it cannot be taken into consideration for the purposes of allowing the compounding application.

10. Learned State Counsel submits that this is not a case in which while exercising the extraordinary powers under Section 482 Cr.P.C the compounding application can be allowed. He further submits that the crime, as committed, is not treated to be as personal in nature rather it is against society.

11. This Court interacted with the complainant and on interaction what this Court finds that the respondent/complainant is misleading to the Court, which itself reveals that the respondent complainant as well as injured are in hand in glove with the applicants, who are facing the trial for the offences punishable under

Sections 147, 148, 149, 323, 308, 504 and 506 IPC and while carrying out the investigation the whole machinery were put into motion and after collecting cogent and credible evidence charge sheet was filed.

12. The stand of the respondent no. 2 / complainant, who is present in the Court, that he does not want to pursue this case, as he has settled the dispute with the applicants, cannot be accepted, particularly, when he is deliberately misleading to the Court.

13. No doubt this Court has extraordinary powers under Section 482 Cr.P.C, but this aid is not meant for those who are hand in gloves with accused and who are involved in a crime which is against the society and in which after thorough investigation and collecting credible evidence charge-sheet has been filed. It is settled principle of law that powers under Section 482 Cr.P.C should be used sparingly and carefully with caution and only to stop abuse of process of law or otherwise to secure the ends of justice. This Court is fully agreed with the submissions advanced by learned State Counsel and accordingly, this Court is of the view that this is not a case in which proceedings should be quashed by allowing the compounding application.

14. Accordingly, the compounding application is rejected. Since I do not find any merit in the present C482 application and consequently the same is also dismissed.

(Rakesh Thapliyal, J.)
27.06.2024