



2024:UHC:8976

HIGH COURT OF UTTARAKHAND AT NAINITAL

Criminal Misc Application No. 806 of 2024

With

IA No. 01 of 2024 (Compounding Application)

03 December, 2024

Shamshul Hasan

--Petitioner

Versus

State of Uttarakhand & Others

--Respondents

Presence:-

Mr. Mani Kumar, counsel for the petitioner/accused.

Mr. Deepak Bisht, learned D.A.G. for the State.

Mr. Kishore Rai, counsel for the respondent no. 3.

Hon'ble Vivek Bharti Sharma, J.

This criminal misc. application is filed under Section 528 of B.N.S.S. by the petitioner/accused for quashing of the charge-sheet dated 03.05.2021, cognizance order dated 19.05.2021 passed by the court of learned Special Judge (POCSO)/F.T.C./Additional District & Sessions Judge, Haldwani, District Nainital as well as the entire proceedings of Special Session Trial No. 31 of 2021, '*State of Uttarakhand vs. Shamshul Hasan*' pending in the court of learned Special Judge (POCSO)/F.T.C./Additional District & Sessions Judge, Haldwani, District Nainital under Sections 363, 366 & 376(3) of IPC and Section 5(j)(ii)/6



of the Protection of Children from Sexual Offence Act, 2012 qua the petitioner, in view of the compromise arrived at between the parties.

2. In view of the fact that a Compounding Application was filed by the parties before this Court, this Court vide order dated 19.11.2024 had directed the parties to appear before the Secretary, District Legal Services Authority, Nainital in order to get their statements recorded and to verify the compromise deed.

3. Pursuant to such order, Secretary, District Legal Services Authority, Nainital has submitted her report dated 23.11.2024 which clearly indicates that the parties have settled the dispute amicably and have also verified the contents of the compromise.

4. The brief facts of the case are that on 05.03.2021, the respondent no.2/complainant lodged an F.I.R. against the present petitioner/accused alleging that the daughter of the complainant was missing from the house from 25.02.2020; that, on 21.12.2020 the daughter of the complainant returned to her parental house with the present petitioner/accused and told that the present petitioner/accused and the prosecutrix/victim



performed *Nikah* on 08.03.2020.

5. After lodging the F.I.R., the statement of the prosecutrix/victim was recorded under Section 164 of Cr.P.C., wherein the prosecutrix/victim stated her age to be 15 years on the date of recording of statement under Section 164 Cr.P.C. i.e. 15.03.2021, but as per Aadhar Card the date of birth of the prosecutrix/victim is 03.03.2005. The Investigating Officer after concluding the investigation submitted charge sheet before the trial court on 03.05.2021 for the offence punishable under Sections 313, 323, 363, 366, 376(3) & 504 of IPC and Section 5(j)(ii)/6 of the POCSO Act against the present petitioner/accused.

6. Learned counsel for the petitioner/accused would submit that the marriage of the petitioner/accused and the respondent no.3/victim was solemnized when the victim attained the age of majority, i.e. 15.08.2024 (*the Nikahnama of the petitioner/accused and the prosecutrix/victim is enclosed as Annexure No. 4 to the petition*); that, now they are residing as legally wedded husband and wife and there is no grievance of prosecutrix/victim against the petitioner/accused; that, continuance of the criminal proceedings after the compromise arrived at



between the parties would be a futile exercise.

7. Though, the present compounding application is filed to compound the offence punishable under Section 376 of IPC which is a non-compoundable offence but in view of the fact that the marriage of petitioner/accused and the prosecutrix/victim was solemnized and now the prosecutrix/victim has no grievance against the petitioner/accused, therefore, this Court is of the opinion that no useful purpose would be served in prosecuting the petitioner/accused any further and it would be a futile exercise to continue the criminal proceedings. In fact, the continuation of proceedings would cause immense harm to the prosecutrix/victim.

8. In the peculiar facts and circumstances of the case, Compounding Application (*IA No.1 of 2024*) is allowed. As a consequence thereof, the charge-sheet dated 03.05.2021, cognizance order dated 19.05.2021 passed by the court of learned Special Judge (POCSO)/F.T.C./Additional District & Sessions Judge, Haldwani, District Nainital along with charge dated 22.09.2021 as well as the entire proceedings of Special Session Trial No. 31 of 2021, '*State of Uttarakhand vs. Shamshul Hasan*' pending in the court of learned



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Special Judge (POCSO)/F.T.C./Additional District & Sessions Judge, Haldwani, District Nainital under Sections 363, 366 & 376(3) of IPC and Section 5(j)(ii) & 6 of the Protection of Children from Sexual Offence Act, 2012 is hereby quashed qua the petitioner.

9. Present petition u/s 528 of B.N.S.S. is, thus, disposed of in terms of the compromise arrived at between the parties.

(Vivek Bharti Sharma, J.)
03.12.2024

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Digitally signed by Akash
DN: cn=Akash, o=UTTAM BHAND,
ou=JUDGE COURT OF UTTAM BHAND,
c=IN, email=akash@uttam.bhand.in,
serial=2024120315151544523F,
dnQualifier=AKASH