



2024:UHC:8152

HIGH COURT OF UTTARAKHAND AT NAINITAL

Criminal Misc. Application U/s 482 No. 2452 of 2023

With

IA/1/2023 (Compounding Application)

05 November, 2024

Nitin Malik

--Petitioner

Versus

State of Uttarakhand and Others

--Respondents

Presence:-

Mr. Himanshu Pal, Advocate for the petitioner through V.C.

Mr. Pratiroop Pandey, learned Assistant Government Advocate for the State.

Mr. Mohit Kumar, learned counsel for respondent nos.2 and 3.

Hon'ble Vivek Bharti Sharma, J.(Oral)

This C482 petition has been filed for quashing and setting aside the charge sheet dated 19.02.2023, order dated 09.03.2023 passed by learned Chief Judicial Magistrate, Haridwar as well as entire proceedings arising out of Criminal Case No.4138 of 2023(*FIR No.556 of 2022*), '*State vs. Arun @ Chintoo & others*' under Sections 307, 364, 511, 34 I.P.C., Police Station Kotwali Jwalapur, District Haridwar, pending in the court of Chief Judicial Magistrate, Haridwar.

2. During the pendency of this petition, an application for compounding is filed by the parties. As the grounds of petition for quashing and application for compounding are materially same, therefore, both are heard together.



3. Counsel for the petitioner /accused would submit that respondent no.3/Ayush was examined before the Trial Court but he has been declared hostile.

4. Counsel for the petitioner/accused would further submit that the parties have compromised and the complainant has stated that the petitioner /accused was not present at the time of the incident; that, on this ground only, the petitioner /accused was granted bail by the Trial Court.

5. Counsel for the State would vehemently oppose the compounding application and would submit that the petitioner /accused is charged with very serious and heinous crime; that, as per the charge sheet, the victim was shot at in his stomach by firearm, and when his statement was being recorded, the condition of the victim was so precarious that he could not record his statement fully because of the firearm injuries his intestine had been badly damaged.

6. He would further submit that turning hostile of one witness in such type of serious and heinous crime does not mean that all other witnesses are of no consequence; that, the evidence of all the witnesses are still to be recorded, therefore, the compounding application may be dismissed.



7. In view of the above, this Court is of the view that the compounding application is liable to be dismissed as the petitioner /accused is charged with very serious and heinous crime. Accordingly, the compounding application is dismissed.

8. In respect of quashing of the proceedings, learned counsel for the State opposed the C-482 petition on the ground that it is a frivolous petition just to delay the proceedings; that, the grounds taken by the petitioner/accused in his defence are a matter of trial and the same cannot be decided by the High Court at this stage.

9. Perused the record in the light of submissions made hereinabove.

10. In the considered opinion of this Court, the trial court has rightly summoned the petitioner/accused to face trial under the relevant sections. Furthermore, the issues raised by the petitioner/accused are, apparently, his defence, which is a matter of evidence that warrants trial and should not be looked into by this Court while exercising jurisdiction u/s 482 Cr.P.C.

11. It is trite that the powers under Section 482 Cr.P.C. have to be exercised sparingly, carefully and with caution and only to prevent abuse of process of law by the Courts or otherwise to secure ends of justice. In view



15. Let a copy of this order be sent forthwith to the court concerned for information, compliance and to proceed, as per law.

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