

HIGH COURT OF UTTARAKHAND AT NAINITAL

Criminal Misc. Application No. 2349 of 2023

1. Gulam Gaus
- 2: Tariqhulla Khan
- 3: Mohd. Yunus Salmani alias Yunus Usmani

--Applicants

Versus

State Of Uttarakhand and Another

--Respondents

Presence:-

Mr. M.K. Ray, learned counsel with Mr. Harsh Taneja, learned counsel for the applicants.

Mr. Chitrarth Kandpal, learned Brief Holder for the State/ respondent no.1.

Ms. Farheen Bano, learned counsel holding brief of Mr. Tijil Gangwar, learned counsel for the respondent no.2.

Hon'ble Siddhartha Sah, J.

Mr. M. K. Ray, learned counsel for the applicants.

Mr. Chitrarth Kandpal, learned Brief Holder for the State/respondent no.1.

Ms. Farheen Bano, learned counsel holding brief of Mr. Tijil Gangwar, learned counsel for the respondent no.2.

2. By means of the present Criminal Misc. Application under Section 482 of Cr.P.C., the applicants have sought quashing of the impugned charge sheet dated 29.09.2023 and cognizance/summoning order dated 03.11.2023 as well as the entire proceedings of Special Sessions Trial No.963 of 2023, 'State vs. Gulam Gaus and Others', under Sections 504, 506 of IPC and

Section 3(1)(r) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, Police Station Gadarpur, District Udham Singh Nagar, pending before the court of learned Special Sessions Judge, Rudrapur, District Udham Singh Nagar.

3. During the pendency of the instant Criminal Misc. application before this Court, the applicants and the respondent no.2 have jointly filed a Compounding Application (No.03 of 2026) with the prayer that this instant application may be allowed and impugned charge sheet dated 29.09.2023 and cognizance/summoning order dated 03.11.2023 as well as the entire proceedings of Special Sessions Trial No.963 of 2023, 'State vs. Gulam Gaus and Others', under Sections 504, 506 of IPC and Section 3(1)(r) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, at police station Gadarpur, District Udham Singh Nagar pending before the court of learned Special Sessions Judge, Rudrapur, District Udham Singh Nagar may be quashed.

4. Applicant no.1-Gulam Gaus, applicant no.2-Tariqhulla Khan and applicant no.3-Mohd. Yunus are present. They are duly identified by Mr. M.K. Ray, Advocate.

5. The respondent no.2 – Rajat alias Ashwini

Kumar is also present in-person. He is duly identified by Ms. Farheen Bano, Advocate.

6. Heard learned counsel for the parties on Compounding Application (IA No.03 of 2026).

7. The said application is duly supported by the affidavits of the applicant no.1, applicant no.2, applicant no.3 on the one side and the respondent no.2-victim/complainant on the other side.

8. On an interaction with the complainant/respondent no.2 Mr. Rajat alias Ashwani Kumar, he has stated before the Court that the parties have entered into a compromise on their own free will and without any pressure, and the parties belong to the same city and they want to reside peacefully, and does not want to prosecute the applicants arising out of the said criminal case. They want to maintain peace and harmony between them and thus submit that the matter may be closed and the compounding application may be allowed.

9. The Court also interacted with the applicants: Applicants Gulam Gaus, Tariqhullah Khan, Mohammad Yunus Salmani alias Yunus Salmani. The applicants also state that the parties have entered into a compromise, and the opposite party does not want to prosecute the applicants any longer and they submit that the compounding application may be allowed.

10. Learned counsel for the applicants and the respondent no.2 thus urge that the compounding application be allowed and the impugned charge sheet, cognizance/summoning order and entire proceedings of the said Special Sessions Trial may be quashed.

11. However, on the other side, learned Brief Holder for the State would submit that the offenses punishable under Section 3(1)(r) the SC & ST Act, which is non-compoundable, and thus would submit that respondent no.2 may not be permitted to compound the offences, and the compounding application may be rejected.

12. On this, learned counsel for the applicant would submit that this Court has consistently permitted compounding in SC/ST matters. He has relied upon judgments of this Court in the case of Pappu Negi alias Girish Negi & Another vs. State of Uttarakhand & Another, reported in 2017 SCC OnLine Utt 700; Rajesh Kumar & Four Others vs. State of Uttarakhand & Another, reported in 2017 SCC OnLine Utt 1083; and Manish Chauhan & Others vs. State of Uttarakhand & Another, reported in 2017 SCC OnLine Utt 237 and he would submit that in all these aforesaid matters, this Court has consistently allowed compounding applications and have quashed proceedings under the SC/ST Act.

13. In this regard, reference is made to the judgment of the Hon'ble Apex Court in the case of Gian Singh vs. State of Punjab, 2012 (10) SCC 303, Dimpey Gujral vs. Union Territory, Chandigarh, (2013) 11 SCC 497, B.S. Joshi vs. State of Haryana, (2003) 4 SCC 675 and Nikhil Merchant vs. CBI, (2008) 9 SCC 677, wherein the Hon'ble Supreme Court has permitted the compounding of non-compoundable offences.

14. In such view of the matter, the objection as raised by the learned Brief Holder for the State is unsustainable. Therefore, since the parties have entered into a compromise and they want to reside peacefully, and particularly the respondent no.2 does not want to pursue the matter any longer, it would be a futile exercise to let the matter go into trial. Therefore, compounding application is allowed, and the offences are permitted to be compounded.

15. As a consequence thereof, the impugned charge sheet dated 29.09.2023 and cognizance/ summoning order dated 03.11.2023 as well as the entire proceedings of Special Sessions Trial No.963 of 2023, 'State vs. Gulam Gaus and Others', under Sections 504, 506 of IPC and Section 3(1)(r) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, Police Station Gadarpur, District Udham Singh

Nagar pending before the court of learned Special Sessions Judge, Rudrapur, District Udham Singh Nagar are hereby quashed.

16. The Criminal Misc. Application No.2349 of 2023 is, accordingly, disposed of.

17. Pending applications, if any, stand disposed of accordingly.

(Siddhartha Sah, J.)

31.07.2026

JKJ/