

HIGH COURT OF UTTARAKHAND AT NAINITAL

Writ Petition Criminal No. 640 of 2025

20th June, 2025

Shahban and ors

.....Petitioners

Versus

State of Uttarakhand and others

.....Respondents

Presence:-

Mr. Alok Kumar, Advocate for the petitioners.

Mr. S.S. Chauhan, D.A.G. with Mr. Vikas Uniyal, B.H. for the State.

Mr. Vaibhav Singh Chauhan, Advocate for respondent no.3.

Hon'ble Pankaj Purohit, J.

By means of the present writ petition, petitioners have put to challenge the F.I.R. No.0134 of 2025 dated 02.05.2025, under Sections 109, 115(2), 190, 191(2), 191(3), 309(4), 324(4), 351(2) and 351(3) of B.N.S. 2023 registered at Police Station Kaliyar Sharif, District Haridwar, in view of the compromise entered into between the parties.

2. A joint compounding application has been moved on behalf of the parties seeking to compound offences under the aforesaid sections.

3. Petitioner nos.1, 2, 7 and 10 are present, physically, in the Court while petitioner nos.3, 4, 5, 6 – (petitioner no.6 is a minor and her affidavit is filed through her mother), 8, 9, 11, 12, 13, 14 and 15 are present before this Court, virtually. Respondent no.3 is also present before this Court through video conferencing. All of them are duly identified by their respective counsel.

4. In the compounding application, it has been stated by the parties that they have reached to terms of

compromise wherefor a settlement has also been arrived at between them. It is thus, prayed that the present first information report be quashed in terms of the compromise arrived at between them.

5. Learned State Counsel raised a preliminary objection to the effect that the offences sought to be compounded are non-compoundable. He further objected to the compounding application on the ground that the offences sought to be compounded are very heinous like 109 of B.N.S. Act i.e. attempt to murder.

6. Learned counsel for the petitioners relied upon a judgment rendered by Hon'ble Supreme Court in the case of ***Jaiveer Malik & Another Vs. The State of Delhi*** passed in ***Criminal Appeal Nos.864-866 of 2024***, wherein, the proceedings arising out of F.I.R. No.223 of 2016 were set aside, which too were registered under Section 307 of IPC, taking recourse of *Yogendra Yadav* case as noted below.

7. Hon'ble Supreme Court in the case of ***Yogendra Yadav and Others Vs. State of Jharkhand and Another*** reported in ***(2014) 9 SCC 653***, in Para 4 it has been observed as under:-

"4. Now, the question before this Court is whether this Court can compound the offences under Sections 326 and 307 of the IPC which are non-compoundable. Needless to say that offences which are non-compoundable cannot be compounded by the court. Courts draw the power of compounding offences from Section 320 of the Code. The said provision has to be strictly followed (Gian Singh v. State of Punjab) (2012) 10 SCC 303. However, in a given case, the High Court can quash a criminal proceeding in exercise of its power under Section 482 of the Code having regard to the fact that the parties have amicably settled their disputes and the victim has no objection, even though the offences are non-compoundable. In which cases the High Court can exercise its discretion to quash the proceedings will depend on facts and circumstances of each case. Offences which involve moral turpitude, grave offences like rape, murder etc. cannot be effaced

by quashing the proceedings because that will have harmful effect on the society. Such offences cannot be said to be restricted to two individuals or two groups. If such offences are quashed, it may send wrong signal to the society. However, when the High Court is convinced that the offences are entirely personal in nature and, therefore, do not affect public peace or tranquility and where it feels that quashing of such proceedings on account of compromise would bring about peace and would secure ends of justice, it should not hesitate to quash them. In such cases, the prosecution becomes a lame prosecution. Pursuing such a lame prosecution would be waste of time and energy. That will also unsettle the compromise and obstruct restoration of peace.”

8. The Hon’ble Supreme Court is of the view that ‘if Court is convinced that the offences are entirely personal in nature and, therefore, do not affect public peace or tranquility and where it feels that quashing of such proceedings on account of compromise would bring about peace and would secure ends of justice, it should not hesitate to quash them. In such cases, the prosecution becomes a lame prosecution. Pursuing such a lame prosecution would be waste of time and energy. That will also unsettle the compromise and obstruct restoration of peace’

9. Having considered the submissions made by learned counsel for the parties and the principle enunciated by the Hon’ble Supreme Court in the case of **Yogendra Yadav (Supra)**, which is reiterated in **Jaiveer Malik (Supra)**, this Court is of the opinion that since the parties have reached to the terms of the compromise, there would remain a remote or bleak possibility of conviction in this case. It can also safely be inferred that it would be unfair or contrary to the interest of justice to permit continuation of the criminal proceedings. Since the answer to the aforesaid points is in affirmative, this Court finds it a fit case to permit the parties to compound the matter.

10. Accordingly, Compounding Application (IA No.1 of 2025) is hereby allowed. The compromise arrived at between the parties is accepted. F.I.R. No.0134 of 2025 dated 02.05.2025, under Sections 109, 115(2), 190, 191(2), 191(3), 309(4), 324(4), 351(2) and 351(3) of B.N.S. 2023 registered at Police Station Kaliyar Sharif, District Haridwar, is hereby quashed, *qua*, the petitioners. Consequently, all the subsequent proceedings pursuant to the impugned F.I.R. automatically shall come to an end

11. Present criminal writ petition stands allowed accordingly.

(Pankaj Purohit, J.)
20.06.2025

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