

**(2019) 08 UK CK 0202**

**Uttarakhand High Court**

**Case No:** Criminal Miscellaneous Application (C-482) No. 1232 Of 2019

Shivam Khurana

APPELLANT

Vs

State Of Uttarakhand And  
Another

RESPONDENT

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**Date of Decision:** Aug. 28, 2019

**Acts Referred:**

- Code Of Criminal Procedure, 1973 - Section 482
- Indian Penal Code, 1860 - Section 307, 506

**Hon'ble Judges:** N.S. Dhanik, J

**Bench:** Single Bench

**Advocate:** Navjot Singh, S.K. Chaudhary, Harshpal Sekhon

**Final Decision:** Disposed Of

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**Judgement**

N.S. Dhanik, J

1. This Criminal Miscellaneous Application, under Section 482 Cr.P.C., along with compounding application being CRMA No. 1873 of 2019, is

preferred to quash the impugned summoning order dated 21.09.2017 passed by the learned Chief Judicial Magistrate, District Udham Singh Nagar in

league with entire proceedings of Session Trial No. 212 of 2018, "State vs. Shivam Khurana", under Sections 307 and 506 of IPC, registered at

P.S. Rudrapur, pending before the Court of IInd Additional Sessions Judge, Udham Singh Nagar (Rudrapur).

2. In the joint compounding application, duly supported by the affidavits of accused applicant and the respondent no. 2, it has been stated that parties

have amicably settled their dispute and the victims do not want to prosecute the accused. Accused applicant Shivam Khurana as well as respondent

no. 2 Rohit Grover, duly identified by their respective Counsel, were present before this Court on the previous date of listing and they admitted that

they have entered into compromise. Compounding application bears the signatures/thumb impressions of the accused applicant and the respondent no.

2.

3. Learned State Counsel opposed the compounding application and contended that offences under Section 506 IPC, for which the accused applicant

is facing trial, is non-compoundable. Emphasis of the learned State Counsel is on the offence under Section 307 IPC.

4. Learned Counsel for the accused applicant contended that the injured received no injury and it is no injury case. Learned Counsel placed reliance

on a recent judgment of Hon<sup>ble</sup> Apex Court in State of Madhya Pradesh v. Laxmi Narayan, (2019) 5 SCC 688, wherein it has been observed as

under:

“Offences under Section 307 IPC would fall in the category of heinous and serious offences and therefore are to be generally treated as crime

against the society and not against the individual alone. However, the High Court would not rest its decision merely because there is a mention of

Section 307 IPC in the FIR or the charge is framed under this provision. It would be open to the High Court to examine as to whether incorporation of

Section 307 IPC is there for the sake of it or the prosecution has collected sufficient evidence, which if proved, would lead to proving the charge under

Section 307 IPC. For this purpose, it would be open to the High Court to go by the nature of injury sustained, whether such injury is inflicted on the

vital/delicate parts of the body, nature of weapons used, etc. Medical report in respect of injuries suffered by the victim can generally be the guiding

factor. On the basis of this prima facie analysis, the High Court can examine as to whether there is a strong possibility of conviction or the chances of

conviction are remote and bleak. In the former case it can refuse to accept the settlement and quash the criminal proceedings whereas in the latter

case it would be permissible for the High Court to accept the plea compounding the offence based on complete settlement between the parties. At this

stage, the Court can also be swayed by the fact that the settlement between the parties is going to result in harmony between them which may

improve their future relationship.â€

5. Needless to say, non-compoundable offences cannot be compounded. But considering the nature of injuries, above authority of the Honâ€™ble

Apex Court and also the proposition of law laid down by the Honâ€™ble Apex Court in Nikhil Merchant v. C.B.I. & Ors, (2008) 9 SCC 67;7 B.S.

Joshi v. State of Haryana & Anr. reported in (2003) 4 SCC 675, and in Gian Singh v. State of Punjab & Another, (2012) 10 SCC 303, where there is

a genuine compromise and there is hardly any likelihood of the offender being convicted and continuance of the proceedings, after the compromise

having been arrived at between the parties, would be a futile exercise, the compromise should be accepted and the proceedings should be quashed.

6. Considering the facts and circumstances of the case and the legal proposition propounded by the Honâ€™ble Apex Court, compounding application

is allowed. Compromise arrived at between the parties is accepted.

7. Consequently, the impugned summoning order dated 21.09.2017 passed by the learned Chief Judicial Magistrate, District Udham Singh Nagar in

league with entire proceedings of Session Trial No.212 of 2018, â€œState vs. Shivam Khuranaâ€, under Sections 307 and 506 of IPC, registered at

P.S. Rudrapur, pending before the Court of IInd Additional Sessions Judge, Udham Singh Nagar (Rudrapur) are hereby quashed, so far it relates to

the applicant only. Present criminal miscellaneous application stands disposed of accordingly. Inform the Court concerned accordingly.