

IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

Compounding Application (IA No. 1 of 2022)

In

Writ Petition (Criminal) No. 1693 of 2022

Lavi Gangwar

.....

Petitioner

versus

State of Uttarakhand & others.....

Respondents

Mr. Rajkumar Singh, learned counsel for the writ applicant.

Ms. Manisha Rana, learned AGA for the State.

Ms. Radha Arya, learned counsel for the respondent no.3.

Judgement dated: 07.09.2022

Hon'ble Sanjaya Kumar Mishra, J.

Upon hearing the learned counsel, the Court made the following Order.

1. This writ application has been filed for quashing of the FIR No. 065 of 2022, for the offences punishable under Section 66-A of Information Technology Act, 2000 and Section 506 IPC of the Indian Penal, Police Station Banbasa, District Chamapwat.
2. The Police has registered the case under Section 66-A of the Information Technology Act, 2000, in spite of the fact that the said Section has been declared *ultra vires* by the Constitutional Bench of Hon'ble Supreme Court. Learned counsel for the applicant however would submit that it has been done

due to typographical mistake and the investigation is going under section 67-A of the Information Technology Act, 2000. In that view of the matter, *(Section 67-A shall be read in place of Section 66-A)* as the same has been deleted). Moreover, the same has been declared ultra virus by the Hon'ble Supreme Court.

3. A compounding application being IA No. 1 of 2022 has been filed by the parties for disposing of the case on the basis of compromise arrived at between the parties with prayer to quash the FIR dated 14.07.2022, as the parties have settled their disputes amicably. Both the parties are present in person and submitted their identity proofs, namely, Aadhar Cards and the parties are duly identified by their respective counsel. This Court is satisfied with their identifications. Learned counsel for the parties submit that the matter has been settled between them.
4. I have perused the respective Adhar Cards of all the parties. I am satisfied that there is an amicable settlement between the parties.
5. However, learned counsel for the State not seriously objects to the application for compromise as the offences complained of against the applicant is compoundable. However, in view of the fact that compounding of an offence under Section 320 of the Code and quashing of the FIR on the basis of compromise are two different things. Though these offences

are not compoundable under Section 320 of the Code, but the High Court in exercise of jurisdiction under Article 226 of the Constitution of India is duly authorized to quash an FIR or criminal proceedings by issuing a writ of Certiorari in this case. Moreover, these type of cases are not expected by the Hon'ble Supreme Court in the two judgments i.e. *Gian Singh vs. State of Punjab (2012) 10 SCC 303* and *State of Madhya Pradesh v. Laxmi Narayan (2019) 5 SCC 688*. Accordingly the compounding application is allowed.

6. Keeping in view the totality of the fact, especially, the fact that all the petitioners and the complainant (respondent no. 3) have already settled their disputes and it will render exercise of criminal trial futile, may result in wastage of public money and time and it is a fit case, in which, the FIR should be quashed. Continuance of the criminal investigation would be an abuse of process of law.
7. The above offences are hereby allowed to be compounded, and therefore, the impugned FIR as mentioned above, is hereby quashed. Accordingly, the Writ Application is also allowed on the basis of compromise arrived at between the parties.

(S.K.Mishra, J.)

(Grant urgent copy of this order as per Rules)