

(2009) 08 UK CK 0028
In the Uttarakhand High Court

Ajay Kumar

APPELLANT

Vs

State of Uttranchal and Another

RESPONDENT

Date of Decision : 10-08-2009

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Penal Code, 1860 (IPC) — Section 323, 420, 467, 468, 471

Citation : (2009) 08 UK CK 0028

Hon'ble Judges : B.C.Kandpal, Acting C.J.

Bench : Single Bench

Final Decision : Allowed

Judgement

B.C. Kandpal, A.C.J.

1. By way of this petition u/s 482 Cr.P.C. has been filed by the petitioner, who is facing the trial in Criminal Case No. 711 of 2000, under Sections 500 and 501 of I.P.C., Suresh Pal Singh v. Ajay Kumar pending in the court of Judicial Magistrate, IInd, Dehradun has prayed for quashing the aforesaid criminal case.

2. Heard Sri Lokendra Dobhal, learned Counsel for the applicant/petitioner, Sri S.S. Adhikari, learned A.G.A. for the State/respondent No. 1, Sri Lok Pal Singh, learned Counsel for the respondent No. 2 and perused the complaint which has been filed along with the petition as annexure No. 6.

3. The respondent No. 2 who is the complainant in present case has filed the counter affidavit denying the allegations made in the petition. The rejoinder affidavit has also been filed by the petitioner.

4. It is not disputed that apart of the complaint lodged against the petitioner under Sections 500 and 501 of I.P.C. there were other criminal cases pending between the parties. The petitioner in fact lodged the complaint against the respondent No. 2 u/s 420, 467, 468, 471, 504 and 506 of I.P.C. The respondent No. 2 challenged the proceedings of the case against him under the aforesaid Sections by way of filing the petition u/s 482 Cr.P.C., which was dismissed by this

Court. Another case is also pending between the parties, which is Case Crime No. 2 of 2000 under Sections 323, 504 and 506 of I.P.C. and in that case respondent No. 2 is an accused.

5. In the light of the aforesaid circumstances, I think that the present complaint filed by respondent No. 2 against the petitioner is nothing but a counterblast on account of personal grudge of respondent No. 2. This complaint appears to be a wreak vengeance by respondent No. 2 against the petitioner.

6. The Hon''ble Supreme Court in Baijnath Jha v. Sita Ram reported in (2008) 3 Scc (Cri) 428 has held that if the institution of complaint is on account of private and personal grudge and to wreak vengeance is held to be a complaint amounting to abuse of process of court. The Hon''ble Apex Court has further held that in these types of cases, the High Court would be justified to quash the complaint case in exercise of powers u/s 482 Cr.P.C. to prevent the abuse of process of court and secure the ends of justice.

7. The Hon''ble Apex Court has further observed in Mahindra & Mahindra Financial Services Ltd. and Anr. v. Rajiv Diubey reported in (2009) 1 Scc (Cri) 603 has also held that when it appears to the Court that a complaint is nothing but abuse of process of court, being a counterblast to the proceedings initiated by the complainant then this type of complaint appears to be a result of a utirer ulterior motive and such complaint amounts to abuse of process of court.

8. In the light of the aforesaid decisions of the Hon''ble Apex Court as well as after hearing learned Counsel for the parties and perusing of the entire material available on record, I am of the view that the complaint in this criminal case is manifestly mala fide and maliciously instituted with a ulterior motive for wreaking vengeance on the petitioner and with a view to spite him due to private and personal grudge. Thus, the proceedings initiated before the trial court, on the basis of such complaint is liable to be quashed.

9. For the reasons stated above, I am of the view that the proceedings initiated against the petitioner on the basis of the complaint instituted by respondent No. 2 is nothing but counterblast and is absolutely and abuse of process of court. Therefore, I think that in order to prevent the abuse of process of court and secure the ends of justice, this criminal case is liable to be set aside.

10. Accordingly, the petition succeeds. The Criminal proceedings of Criminal Case No. 711 of 2000, under Sections 500 and 501 of I.P.C., Suresh Pal Singh v. Ajay Kumar pending in the court of Judicial Magistrate, IInd, Dehradun is hereby quashed.