
(2010) 08 UK CK 0116
In the Uttarakhand High Court

Balak Nath Yogi and Others

APPELLANT

Vs

State of Uttaranchal and Another

RESPONDENT

Date of Decision : 02-08-2010

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 161, 482
Penal Code, 1860 (IPC) — Section 147, 323, 504, 506
Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 —
Section 3(1)

Citation : (2010) 08 UK CK 0116

Hon'ble Judges : Dharam Veer, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Dharam Veer, J.—Heard Mr. Tapan Singh, Advocate for the petitioners and Mr. Amit Bhatt, Addl. GA for the State.

2. This petition u/s 482 of Code of Criminal Procedure, 1973 (for short, CrPC) has been filed for quashing the chargesheet dated 2.6.2006 and the summoning order dated 13.6.2006 passed in Criminal Case No. 2584/2006, State v. Jai Gopal u/s 147/323/504/506 IPC and 3(1)(x) of SC & ST Act pending in the Court of CJM, Haridwar.

3. Facts, in brief, are that respondent No. 2 lodged an FIR with PS Jawalapur on 24.4.2006 with the averments that on 30.3.2006 at about 7 pm, petitioner Balak Nath along with his four associates which can be identified by him entered in the temple which is under his possession and hurled abuses on him by stating that the said property belongs to him and asked him to leave the said property. When the complainant asked him not to hurl abuses, then he beaten him with the fists. On hearing the noise, Ishwarchand came to save him. Then they also abused him and asked him leave the said property. They also damaged the articles kept inside. Some people of the colony came there and on seeing them, the accused petitioners ran away from the place of occurrence and also taken Rs. 480/-which

kept inside the house. On 31.3.2006, when his Advocate came there along with his Munsi, petitioner Balak Nath again intruded into the house and abused the complainant. On this his Advocate called the police by telephone. Police instructed Balak Nath not to visit the said place again but did not take any legal action against any accused. The complainant also gave an application in this regard before the SSP, Haridwar but no action was taken. With these averments, an FIR was lodged by the respondent No. 2. On the basis of this FIR, a case was registered against the petitioners. After the investigation, the I.O. submitted a chargesheet against the petitioners, on the basis of which learned CJM, Haridwar has taken the cognizance of the offence against the petitioners vide order dated 13.6.2006.

4. Learned Counsel for the petitioners submitted that the petitioners have been falsely implicated in this case. I do not find any force in this argument due to the reason that from the perusal of the contents of FIR and statements of the witnesses recorded u/s 161 CrPC and other evidence collected by the I.O., a prima facie case is made out against the petitioners under the aforesaid sections. The dispute involves factual question which cannot be decided by this Court. The dispute can be decided only after adducing the oral and the documentary evidence by the parties before the trial court. It cannot be decided by this Court only on the basis of papers filed on the record.

5. Even otherwise, the trial court will decide the case after recording the evidence of the complainant as well as of the accused and also on the basis of the appreciation of the evidence as per law. If the allegations made in the FIR and the evidence collected by the Investigating Officer and the statements of witnesses recorded by the I.O. during the course of investigation are taken at their face value and accepted in their entirety, I am of the view that the petitioners have rightly been summoned. The trial court will decide the case after recording the evidence adduced before it. I am of the view that in the present case there is neither any miscarriage of justice nor any abuse of process of Court.

6. The petitions lack merit and are liable to be dismissed.

7. Accordingly, the petition is hereby dismissed.

8. Interim order dated 11.8.2006 stands vacated.