

(2019) 07 UK CK 0224

In the Uttarakhand High Court

Case No : Criminal Miscellaneous Application (C482) No. 393, 795 Of 2014

Bhushan Lal & Others

APPELLANT

Vs

State Of Uttarakhand & Anr

RESPONDENT

Date of Decision : 26-07-2019

Acts Referred:

Indian Penal Code, 1860 — Section 323, 498A

Dowry Prohibition Act, 1961 — Section 3, 4

Code Of Criminal Procedure, 1973 — Section 156(3), 200, 202, 482

Citation : (2019) 07 UK CK 0224

Hon'ble Judges : Lok Pal Singh, J

Bench : Single Bench

Advocate : S.K. Mandal, Sandeep Tandon, Lalit Miglani, V.P. Bahuguna

Final Decision : Allowed/Dismissed

Judgement

Lok Pal Singh, J

1. By means of present criminal misc. application u/s 482 Cr.P.C., applicants seek to quash the summoning order dated 16.1.2013 passed by Judicial Magistrate-II, Dehradun as well as the complaint case no.135 of 2011 Smt. Puja Rani v. Anuj Kumar and others, under Sections 323, 498-A of IPC and Section 3/4 of Dowry Prohibition Act.

2. Brief facts of the case are that respondent no.2 filed an application in the court of Chief Judicial Magistrate, Dehradun, under Section 156(3) of Cr.P.C. stating therein that she got married with the applicant Anuj Kumar on 19.02.2009. In the marriage, her father gave sufficient dowry. Soon after marriage, the applicants started making taunt for bringing insufficient dowry. Her husband also started abusing and beating her. When the complainant told her mother about the harassment meted out to her at the hand of the applicants, her father gave a motorcycle to her husband but even then the applicants did not satisfy. The complainant further alleged that the behaviour of the applicants did not change and even their demands started rising day by day. One day, her

husband left her at her parental house and told that he will take her back when the demand of Bullet will be fulfilled. She further stated that she and her parents kept quite thinking that their behaviour would change but their behaviour did not change. Thereafter on the persuasion of her in-laws her husband came to take her back on which date her mother gave her husband a gold chain and some cash money. Her younger sister also accompanied her to her house. She further stated that for sometime behaviour of the applicants remained normal but on 16.02.2010 the applicants came in their room and got obtained her and her sister's signatures in a compromise. After this incident, the applicant came back to her parental house. On 18.09.2010 her father-in-law gave a call on telephone and asked that if her parents are ready to give rupees one lakh then the complainant would be taken back. On the basis of complaint, criminal complaint case no.135 of 2011 was registered under Sections 323, 498-A of IPC and Section 3/4 of Dowry Prohibition Act. In support of complaint, the respondent no.2-complainant got examined herself u/s 200 of Cr.P.C. Sarla Devi was examined u/s 202 of Cr.P.C. The complainant filed certain documents in documentary evidence. On a perusal of the evidence available on record, Judicial Magistrate-II, Dehradun summoned the applicants to face trial under Section 323, 498-A of IPC and Section 3/4 of Dowry Prohibition Act.

3. Learned counsel for the applicants would submit that the applicant Bhushan Lal is father-in-law, Smt. Santosh Devi is mother-in-law and Km. Sarla is unmarried sister-in-law of the petitioner whereas the applicant Anuj Kumar is husband of respondent no.2. Due to some matrimonial discord between respondent no.2 and applicant Anuj Kumar, entire family has been roped in the instant case, which is nothing but abuse of process of law. He would further submit that the respondent no.2 on her own volition is willing separately from the applicant, which fact can be verified from the counseling report which took place between the parties in the police station, where the respondent no.2 did not make a single allegation against the applicants for demand of dowry. She also stated that she is not interested to live with her husband and that she does not want to initiate any legal proceeding against her in-laws.

4. I have heard learned counsel for the parties and have perused the entire material available on file.

5. On a bare reading of complaint, foundation of the criminal offence is laid against the applicant Anuj Kumar, who happens to be the husband of the victim whereas the allegations levelled against other applicants viz. father-in-law, mother-in-law and sister-in-law are general and vague. It appears that the applicants (in C482 No.393 of 2014) have been falsely implicated in the case merely because they are close and near relatives of husband of the complainant. Now-a-days there is an increasing tendency in the society to over-implicate the near and dear relatives of the husband so as to pressurize the husband. As these relatives of husband stand on different footing, therefore they should not be compelled to face the trial of Court unless any specific allegations have been

made against them.

6. Their Lordships of Hon'ble Apex Court in the case of Geeta Mehrotra vs. State of U.P. and others reported in 2012 (10) SCC 741 has observed as under:-

"19. Coming to the facts of this case, when the contents of the FIR is perused, it is apparent that there are no allegations against Kumari Geeta Mehrotra and Ramji Mehrotra except casual reference of their names who have been included in the FIR but mere casual reference of the names of the family members in a matrimonial dispute without allegation of active involvement in the matter would not justify taking cognizance against them overlooking the fact borne out of experience that there is a tendency to involve the entire family members of the household in the domestic quarrel taking place in a matrimonial dispute specially if it happens soon after the wedding.

20. It would be relevant at this stage to take note of an apt observation of this Court recorded in the matter of G.V. Rao vs. L.H.V. Prasad & Ors. reported in (2000) 3 SCC 693 wherein also in a matrimonial dispute, this Court had held that the High Court should have quashed the complaint arising out of a matrimonial dispute wherein all family members had been roped into the matrimonial litigation which was quashed and set aside. Their Lordships observed therein with which we entirely agree that:

"there has been an outburst of matrimonial dispute in recent times. Marriage is a sacred ceremony, main purpose of which is to enable the young couple to settle down in life and live peacefully. But little matrimonial skirmishes suddenly erupt which often assume serious proportions resulting in heinous crimes in which elders of the family are also involved with the result that those who could have counselled and brought about rapprochement are rendered helpless on their being arrayed as accused in the criminal case. There are many reasons which need not be mentioned here for not encouraging matrimonial litigation so that the parties may ponder over their defaults and terminate the disputes amicably by mutual agreement instead of fighting it out in a court of law where it takes years and years to conclude and in that process the parties lose their "young" days in chasing their cases in different courts."

The view taken by the judges in this matter was that the courts would not encourage such disputes."

7. Their Lordships of Hon'ble Apex Court in the case of Kans Raj v. State of Punjab, (2000) 5 SCC 207 has held as under:-

"... A tendency has, however, developed for roping in all relations of the in-laws of the deceased wives in the matters of dowry deaths which, if not discouraged, is likely to affect the case of the prosecution even against the real culprits. In their over enthusiasm and anxiety to seek conviction for maximum people, the parents of the deceased have been found to be making efforts for involving other relations which ultimately weaken the case of the prosecution even against the

real accused as appears to have happened in the instant case."

8. Keeping in view the above facts and circumstances, continuation of criminal proceedings against the applicants, namely, Bhushan Lal, Smt. Santosh Devi and Km. Sarla would be nothing but abuse of process of law. As regards husband, prima facie the ingredients of Section 498A, 323 IPC and Section 3/4 of Dowry Prohibition Act are made out against him. When the foundation of a criminal offence is made out, this Court has no occasion to interfere with the proceeding of the Court below.

9. Accordingly, C482 application no.393 of 2014 is allowed. Proceedings of the criminal case no.135 of 2011 *smt. Puja Rani vs. Anuj Kumar*, under Sections 323, 498-A IPC and 3/4 of Dowry Prohibition Act as well as the Summoning order dated 16.01.2013 issued by Judicial Magistrate-II, Dehradun are hereby quashed qua the applicants Bhushan Lal, Smt.Santosh Devi and Km. Sarla.

10. Insofar as C482 No.795 of 2014 is concerned, the same is hereby dismissed. The trial court may proceed with the trial qua applicant Anuj Kumar in accordance with law.