
(2010) 09 UK CK 0012

In the Uttarakhand High Court

Case No : Criminal Miscellaneous Application (C-482) No. 458 of 2006

C.P. Rawat

APPELLANT

Vs

Special Judicial Magistrate and Another

RESPONDENT

Date of Decision : 18-09-2010

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Penal Code, 1860 (IPC) — Section 499, 500

Citation : (2011) 1 NCC 170 : (2011) 3 UC 2288

Hon'ble Judges : Prafulla C. Pant, J

Bench : Single Bench

Advocate : Arvind Vashisth, for the Appellant; S.S. Adhikari, A.G.A, for the Respondent

Final Decision : Allowed

Judgement

Prafulla C. Pant, J.—By means of this petition, moved u/s 482 of the Code of Criminal Procedure, 1973 (for short Code of Criminal Procedure), the Petitioner has sought quashing of the proceedings of Criminal Complaint Case No. 194 of 2006; Vinod Chandra Rawat v. C.P. Rawat, relating to offence punishable u/s 500 of I.P.C, pending in the court of Special Judicial Magistrate II, Dehradun.

2. Heard.

3. Brief facts of the case are that the a criminal complaint (copy Annexure -2 to the petition) was filed by Respondent No. 2 Vinod Chandra Rawat against his brother C.P. Rawat (present Petitioner) stating that he (Respondent No. 2) is Additional Secretary, Forest and Rural Development, in Secretariat, Dehradun. It is alleged in the criminal complaint that accused (present Petitioner) sent letters on 01.08.2005 and 04.08.2005, making following accusations against the complainant (Respondent No. 2):

That Mr. Vinod Chandra Rawat who is my younger brother entered into a criminal conspiracy with the view of grabbing my shop and other property standing

thereon. And in pursuance of his illegal conspiracy he let out my shop standing on the plot to a local person of Kotdwara on rent by wrongfully showing himself to be the owner of the said shop. In this way he has committed an offence of wrongful personification and also committed an offence of cheating and forgery with me.

That he has realized Rs. 12,000/- yearly rent last year, and same amount this year on 21.06.2005 from the tenant for which he was never entitled. Mr. Vinod Rawat, Additional Secretary, in Chief Secretaries Office, is harassing me for the last four months. It has also come to my notice that he has pressurized Mr. Gurbachan Singh son of Shri Madan Singh, Kashirampur, Kotdwara. Mr. BrijMohan Jadli, Tea Stall owner and Mr. Shailendra Rawat a stamp vendor at Tehsil Kotdwara to issue a notice in a local newspaper of Dehradun to deprive me from my property. He has also put one Mr. Udairam in our area who is a man of criminal records and hails from Agra. Under these circumstances you are requested for an investigation, and help me in this matter.

The above accusations were contents in the two letters addressed to Hon''ble The Chief Minister and the Chief Secretary of Government of Uttarakhand, as stated in the criminal complaint.

4. Learned Counsel for the Petitioner drew attention of this Court to Exception VIII of Section 499 of the Indian Penal Code, 1860, which provides that it is not defamation to prefer in good faith an accusation against any person to any of those who have lawful authority over that person with respect to the subject matter of accusation. It is contended that even if the allegations made in the impugned criminal complaint are taken to be true, it does not constitute an offence punishable u/s 500 of I.P.C., for which the trial court has summoned the Petitioner, to face the trial.

5. After going through the contents of the criminal complaint, copy of which is Annexure -2 to the petition, it is evident that the Petitioner C.P. Rawat has made allegations against his brother Vinod Chandra Rawat (complainant/Respondent No. 2) to the Chief Minister and Chief Secretary of Government of Uttarakhand. Since, the complainant is admittedly an Additional Secretary in the Secretariat, Dehradun, the Chief Minister and the Chief Secretary are the persons who have lawful authority over the complainant. Making complaint to them in respect of alleged conduct on the part of the complainant (whether true or false) if made bonafide, it does not constitute an offence punishable u/s 500 of I.P.C., as the same is covered by Exception VIII of Section 499 of I.P.C.

6. Therefore, even if the allegations made in the criminal complaint are taken to be true, the ingredients of offence for which the trial court has summoned the Petitioner, are not made out. In the circumstances, the proceedings before the trial court are liable to be quashed.

7. Accordingly, the petition u/s 482 of Code of Criminal Procedure, is allowed. The proceedings of Criminal Complaint Case No. 194 of 2006, Vinod Chandra

Rawat v. C.P. Rawat, pending in the court of Special Judicial Magistrate II, Dehradun, relating to offence punishable u/s 500 of I.P.C, are hereby quashed.