
(2012) 08 UK CK 0016

In the Uttarakhand High Court

Case No : Criminal Miscellaneous Application (C482) No. 804 of 2010

Dashrath Pant and Others

APPELLANT

Vs

State of Uttarakhand and Others

RESPONDENT

Date of Decision : 13-08-2012

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 193, 195, 195(1)(b)(i), 196, 199
Penal Code, 1860 (IPC) — Section 211, 323, 354, 452, 504

Citation : (2012) 2 NCC 902 : (2013) 2 UC 1539

Hon'ble Judges : Prafulla C. Pant, J

Bench : Single Bench

Advocate : D.C.S. Rawat, for the Appellant; Sangeeta Miyan, Brief Holder for the State and Mr. Bhupendra Bisht, Advocate for the Respondent No. 2, for the Respondent

Final Decision : Allowed

Judgement

Prafulla C. Pant, J.—Heard. By means of this petition, moved u/s 482 Cr.P.C., the petitioner has challenged the order dated 29.05.2010 passed by Addl. Judicial Magistrate, Rishikesh, District-Dehradun in Criminal Compliant Case No. 291 of 2010, Cauri Shankar Vs. Dashrath Pant and another, relating to offence punishable u/s 211 of I.P.C.

2. Brief facts of the case are that on 05.02.2001 petitioner no. 1 Dashrath Pant, lodged the First Information Report at Police Station Rishikesh, against the respondent no. 2 Cauri Shankar, relating to offences punishable u/s 452, 323, 354 and 506 of I.P.C. which was registered as Crime No. 591 of 2001. After investigation, police submitted chargesheet in said case against the respondent no. 2 Cauri Shankar, for his trial in respect of offences punishable u/s 323, 354, 452, 504 and 506 of I.P.C. After framing of the charge prosecution evidence was adduced and same was put to the accused Cauri Shankar and after hearing the parties, it was found that the prosecution failed to prove the charge beyond reasonable doubt against Cauri Shankar (respondent no. 2). Accordingly, he was

acquitted from the charge of the offences punishable u/s 452, 323, 354, 504 and 506 of I.P.C. by Civil Judge/Addl. Judicial Magistrate, Rishikesh vide his order dated 13.08.2009, in Criminal Case no. 1181 of 2009. The said order got affirmed vide order dated 30.03.2012 passed by Addl. Sessions Judge/VIIIth Fast Track Court, Dehradun in Criminal Appeal No. 24 of 2011.

3. Thereafter, respondent no. 2 Cauri Shankar, filed Criminal Complaint Case against the petitioners, which was registered as criminal Complaint No. 291 of 2010, after recording the statement of the complainant u/s 200 Cr.P.C., and looking in to the copies of the judgments, passed by the Courts in respect of the trial of the petitioners, and the petitioners were summoned to face the trial in respect of offence punishable u/s 211 of I.P.C.

4. Section 211 of I.P.C. provides that punishment for making false charge of offence with intent to injure a person.

5. Section 195(1)(b)(i) Cr.P.C. provides that no court can take cognizance of any offence punishable under certain Sections of Indian Penal Code (45 of 1860) namely Section 193, 196 (both inclusive), 199, 200, 205 to 211 (both inclusive) and 228, when such offence is alleged to have been committed in relation to any proceeding of the Court except on the complaint in writing of that Court or by such officer of the Court as that Court may authorise in writing in this behalf.

6. The above provision contained in section 195(i)(b)(i) of Cr.P.C. makes it abundantly clear that cognizance in respect of Section 211 of I.P.C. could have been taken only on the complaint made by that Court which tried the offence in which the accused (Cauri Shankar) was acquitted. But in the present case Cauri Shankar himself filed the Criminal Complaint against the petitioners and on his complaint the cognizance of offence punishable 211 I.P.C. was barred by section 195 of Cr.P.C. That being so, the impugned summoning order passed by the trial court is liable to be quashed. Accordingly, the petition u/s 482 Cr.P.C. is allowed. Impugned proceedings of criminal complaint case no. 291 of 2010 Cauri Shankar Vs. Dashrath and another pending in the Court of Judicial Magistrate, Rishikesh are hereby quashed. (Criminal Misc. Application No. 1361 of 2010 and 2314 of 2012 also stand disposed of).