
(2011) 02 UK CK 0039

In the Uttarakhand High Court

Case No : Criminal Miscellaneous Application No. 95 of 2006

Dr. B.S. Judge

APPELLANT

Vs

State of Uttaranchal and Others

RESPONDENT

Date of Decision : 22-02-2011

Acts Referred:

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

Citation : (2011) 1 NCC 766 : (2011) 1 UD 238

Hon'ble Judges : Prafulla C. Pant, J

Bench : Single Bench

Judgement

Prafulla C. Pant

CRMA No. 19/2011

This is delay condonation application no. 19 of 2011 for condonation of delay in moving the restoration application. The delay condonation application is allowed. Delay is condoned.

MCRC No. 12/2011

2. Heard on the restoration application MCRC No. 12 of 2011 supported by an affidavit, whereby the order dated 3.11.2009, passed by this Court, dismissing the instant petition u/s 482 Cr.P.C. for non-prosecution, is sought to be recalled.

3. The restoration application is allowed on the condition that the petitioner shall argue on the merits of the petition u/s 482 CrPC today. The petition u/s 482 CrPC stands restored to its original number.

C 482 No. 95/2006

4. Heard on the petition u/s 482 CrPC and perused the papers on record.

5. Brief facts of the case are that petitioner has sought quashing of the proceedings of the Criminal Complaint Case No. 1898 of 2005, Dr. Ashok Kumar

v. Dr. Deepak Dhar Chaudhary & Anr., relating to offence punishable under Section 500 IPC, pending in the court of Judicial Magistrate, Kashipur. Copy of the complaint shows that both petitioner and the complainant are medical officers and also the members of the Indian Medical Association, unit Kashipur and Dehradun. It appears that in one of its meetings, held on 4th of September, 2005, there had been some quarrel, after which a letter was sent by the petitioner to the President of the Indian Medical Association, Dehradun for expelling the complainant from the Association. On its basis, the complainant (Dr. Ashok Kumar Goyal) filed the impugned criminal complaint alleging that he got defamed by the contents made in the letter addressed to the President of the Association, which was circulated for its consideration amongst the members of the Association.

6. Learned counsel for the petitioner drew attention of this Court to the Eighth Exception contained in Section 499 of the Indian Penal Code, 1860. Section 499 IPC provides definition of defamation, and its Eighth Exception provides that it is no 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 subject-matter of accusation. It is further argued that since the dispute arose in the meeting of the Indian Medical Association, as such the petitioner had committed no offence by sending the letter to the President of the Association, who was the person in authority for taking further action in the matter.

7. Having considered the provision contained in the Eighth Exception of Section 499 IPC, this Court is of the view that even if the allegations made in the criminal complaint in question are taken to be true, it does not constitute the offence punishable u/s 500 IPC, as the admitted act on the part of the petitioner was covered by the exception mentioned in Section 499 IPC.

8. For the reasons as discussed above, this petition u/s 482 CrPC is allowed. Proceedings of the impugned Criminal Complaints Case No. 1898 of 2005, Dr. Ashok Kumar v. Dr. Deepak Dhar Chaudhary & Anr., relating to offence punishable u/s 500 IPC, pending in the court of Judicial Magistrate, Kashipur, are hereby quashed.