
(2012) 06 UK CK 0030

In the Uttarakhand High Court

Case No : Criminal Writ Petition No. 456 of 2012

Gurmukh Singh alias Gorkha and another

APPELLANT

Vs

State of Uttarakhand and others

RESPONDENT

Date of Decision : 04-06-2012

Acts Referred:

Penal Code, 1860 (IPC) — Section 504, 506

Citation : (2012) 06 UK CK 0030

Hon'ble Judges : Umesh Chandra Dhyani, J

Bench : Single Bench

Advocate : C.K. Sharma and Mr. Mohd. Matloob, for the Appellant; V.S. Pal, A.G.A, for the Respondent

Judgement

Hon"ble U.C. Dhyani, J.—Heard. Instant criminal writ petition has been filed with the prayer to issue a writ, order or direction in the nature of certiorari quashing the impugned FIR dated 15.05.2012 lodged by respondent no. 3 and registered as Crime No. 237 of 2012 relating to offences punishable u/s 504, 506 of I.P.C. at police station Kashipur, District Udham Singh Nagar.

2) A prayer has also been made to issue a writ, order or direction in the nature of mandamus commanding the respondent nos. 1 and 2 not to arrest the petitioners pursuant to lodgement of FIR dated 15.05.2012 by respondent no. 3 in case crime no. 237 of 2012 u/s 504, 506 of I.P.C., police station Kashipur, District Udham Singh Nagar.

3) Brief facts of the case are that respondent no. 3 Surendra Singh lodged an FIR against the petitioners stating therein that Balvindra Kaur alias Malli, wife of the brother of the informant was married to Gurmukh Singh alias Gorkha (petitioner no.1) and after the marriage she also went to Hong Kong. Gurmukh Singh alias Gorkha was also having his first wife when marriage with Malli took place. Two children were begotten by his first wife. The brother of respondent no. 3 also have two minor children who resided in Hong Kong with their mother. The share of ancestral property of minor children of brother of informant was sold by

Gurmukh Singh after coming to Kashipur leaving only a part of ancestral property. It is further alleged in the FIR that Gurmukh Singh also wanted to sell off the remaining portion of ancestral property belonging to minor children of brother of the respondent no. 3 and as the informant strongly resisted the same, Gurmukh Singh alias Gorkha started harbouring enmity with him. It is further alleged in the FIR lodged by the informant that on 05.05.2012 petitioner Gurmukh Singh alias Gurkha went back to Hong Kong.

4) On 03.05.2012, at about 05:00 P.M. when informant was at his residence, Gurmukh Singh alias Gorkha along with his brother Gurnam Singh alias Gama came there and started abusing him stating not to obstruct the sale of land and also threatened him of dire consequences if he creates hurdle in their design to sell off the land. The petitioners also threatened the informant that it did not matter to them if one more case is got registered against them at police station Kashipur.

5) Learned counsel for the petitioners submitted that in fact respondent no. 3 / complainant himself sold a portion of ancestral property belonging to minor children of Gurmukh Singh alias Gurkha. It is further submitted on behalf of the petitioners that the complainant lodged this false and frivolous FIR in order to pressurize and harass the petitioner no. 1 who is residing in Hong Kong. It is also submitted on behalf of the petitioners that the continuation of the investigation against the petitioners on the basis of false and fabricated FIR would amount to gross abuse of process of law, and as such the impugned FIR lodged against the petitioners is liable to be quashed.

6) A perusal of FIR lodged by informant Surendra Singh on 15.05.2012 reveals that on 03.05.2012 at 05:00 P.M. when the informant was at his residence, Gurmukh Singh alias Gorkha (petitioner no. 1) came along with his brother Gurnam Singh alias Gama (petitioner no. 2). They started abusing him. They also threatened the informant with dire consequences if he creates hurdle in disposing off the land. It cannot be thus said that no ingredients of offences punishable u/s 504, 506 of I.P.C. are made out. FIR is not an encyclopedia of the events and even a reference of abusing the informant and threatening him of dire consequences is enough at the stage of lodging of FIR. The details are to be seen by the trial court when the prosecution is afforded an opportunity to lead the evidence. If petitioner no. 1 was not present in Kashipur on the date of incident and was at Hong Kong, as suggested by learned counsel for the petitioners, a plea of alibi can always be taken by the petitioner before the trial court.

7) Having considered submissions of learned counsel for the petitioners and learned A.G.A. for the State, this court is of the opinion that it is not a fit case in which the FIR dated 15.05.2012 should be quashed. The criminal writ petition is accordingly dismissed summarily at the admission stage itself.

8) The learned counsel for the petitioners made alternative prayers for (a)

directing the court concerned to dispose of the bail application of the petitioners as expeditiously as possible and (b) to expedite the disposal of the trial if the charge sheet is submitted against the petitioners.

9) The alternative prayers seem to be innocuous. Hence, both deserve to be allowed in the interest of justice. In our scheme of things, no one could object that the trial should not be expedited. Further, no one could also object that the bail should not be granted in offences punishable under Sections 504 and 506 of I.P.C.

10) It is therefore directed that in case the petitioners namely, Gurmukh Singh alias Gorkha and Gurnam Singh alias Gama surrender before the court concerned and move application for bail, their bail shall be disposed of without unreasonable delay considering the nature of the offences complained of against them.

11) It is further directed that the trial shall also be concluded as expeditiously as possible in case the charge sheet is submitted against the present petitioners. With these observations, the criminal writ petition is summarily disposed of at the admission stage itself. (Stay application No. 5228 of 2012 also stands disposed of).