
(2012) 01 UK CK 0017

In the Uttarakhand High Court

Case No : Criminal Miscellaneous Application No. 860 of 2007

Israr and others

APPELLANT

Vs

State of Uttarkahand and another

RESPONDENT

Date of Decision : 03-01-2012

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 200, 202, 468, 482, 483

Dowry Prohibition Act, 1961 — Section 3, 4

Penal Code, 1860 (IPC) — Section 364, 452, 498A

Citation : (2012) CriLJ 1462 : (2012) 3 Crimes 505 : (2012) 2 NCC 78 : (2012) 1 UC 325

Hon'ble Judges : Servesch Kumar Gupta, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Servesch Kumar Gupta, J.—By way of this petition, moved under Sections 482/483 Cr.P.C., the order of cognizance dated 8.6.2007 has been assailed, which was passed by Judicial Magistrate, Rudrapur (U.S. Nagar) in criminal complaint case no. 1138/2007, Smt. Nazreen Vs. Israr & others, calling Israr (husband), Smt. Saddiqan (mother in law) and Dulha Miyan (father in law) to stand trial for the offence of Sections 452, 364, 498-A IPC and one punishable u/s 3/4 of Dowry Prohibition Act.

2. In nutshell, the facts of the case are that Smt. Nazreen was espoused with Israr as per Muslim customs almost 10 years before launching of the complaint on 18.5.2007. Soon after the marriage, she faced the voracious attitude of the applicants as well as other members of the family, namely, Ikrar, Abrar (brothers-in-law) and Ishrat (sister-in-law) on the question of dowry. Almost after a year of wedding, she was expelled from her matrimonial home, so she moved a complaint to the competent officer at Pilibhit where the house of her in-laws was situated. The Officer called all the accused persons and the dispute was settled, by way of filing a compromise, on 9.1.2001. The said compromise was supported by an affidavit of Dulhe Miyan (father-in-law), whereby it was undertaken that

Sri Israr (husband) along with his father Dulhe Miyan would not commit any atrocity on the question of dowry any further. It was also undertaken that Smt. Nazreen along with her children will be brought back and that she would be kept with all conjugal affection and would not be assaulted ever. Accordingly, Smt. Nazreen withdrew all the allegations raised by her against her husband and the members of her matrimonial house. Resultantly, a final report no.25 of 2001 was filed by the police too on 23.10.2001, which has the specific mention that the said Final Report was being filed in view of the compromise arrived at between the parties.

3. Just after a couple of years, the dispute demanding the dowry revived, but the same was amicably settled further on 23.10.2004, initiating Smt. Nazreen to take her allegations back again. The said compromise has been annexed as Annexure 4 to the petition.

4. The ill-destined lady Smt. Nazreen was ultimately expelled from her matrimonial house, so she began to reside with her parents at Kichha, District U.S. Nagar, sometime after 23.10.2004. There too, she could not remain peacefully and one day, on 30.4.2007 at about 5 PM, Israr (husband) came along with his two associates and took away the minor daughter Km. Sunaina from the legal custody of her mother Smt. Nazreen at the strength of weapons in their hands. Feeling constrained, Smt. Nazreen launched the prosecution, by way of filing the complaint on 18.5.2007, wherein all the allegations of demand of dowry onwards dated 19.9.2004 were also made. She examined herself u/s 200 Cr.P.C. and her witness Johar Shah was examined u/s 202 Cr.P.C. Learned Magistrate thereafter passed the order of cognizance on 8.6.2007, which has been impugned in this petition.

5. It is pertinent to mention here that no cognizance order was passed against Ikrar, Abrar and Km. Ishrat, while these persons have also challenged the same order of cognizance, so their challenge to the impugned order is redundant and has got no meaning in the eyes of law. However, learned counsel appearing on their behalf, proposes to withdraw the petition. So, this petition, on account of withdrawal, will stand dismissed, as far as petitioners Ikrar, Abrar and Km. Ishrat are concerned.

6. Learned counsel on behalf of rest of the applicants has contended that the allegations of dowry have been said to be made on 19.9.2004 while the incident of alleged kidnapping of the minor daughter is said to have occurred on 30.4.2007, however, both the allegations have been raised in a single complaint, instituted on 18.5.2007. This Court does not see any illegality while raising both the allegations by the complainant in a single complaint, inasmuch as, for each and every time of demand, she was not supposed to institute a complaint separately. Even if the fresh occurrence of demand of dowry is assumed on 19.9.2004, then also, the complaint is within the time limitation, as prescribed u/s 468 Cr.P.C. The allegations of entering into the house with criminal intent and taking away the minor daughter, by way of snatching, that too at the strength of

weapons, have been specifically and unambiguously stated in the complaint. The conduct of Israr (husband), prior to launching of the complaint, is enough to show that by way of repeated inducements to Smt. Nazreen, he managed for filing of the compromise and extinguishing the criminal proceedings against him and his family members hitherto.

7. Taking all the facts and circumstances into consideration, this Court is not inclined to interfere with the order of cognizance. The petition is meritless and liable to be dismissed. It is, accordingly, dismissed, thereby vacating the interim stay order dated 20.11.2007 passed by this Court. Inform the court below to proceed with the trial accordingly.