

(2011) 05 UK CK 0044

In the Uttarakhand High Court

Case No : Criminal Miscellaneous Application No. 430 of 2011

Jitendra Mohan Singh Chaddha

APPELLANT

Vs

State of Uttarakhand and Sri Gurpreet Singh Gogi

RESPONDENT

Date of Decision : 19-05-2011

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Penal Code, 1860 (IPC) — Section 147, 148, 149, 308, 323

Citation : (2011) 05 UK CK 0044

Hon'ble Judges : Prafulla C. Pant, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Prafulla C. Pant, J.—Heard.

2. 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 challenged the order dated 04.04.2011, passed by Addl. Sessions Judge/Fast Track Court VI, Dehradun, in Criminal Revision No. 44 of 2010, whereby said court has dismissed the revision, and maintained the order passed by Special Judicial Magistrate II, Dehradun, on 25.07.2005, in Criminal Case No. 821 of 2005, directing that charge be framed against the accused relating to offences punishable u/s 147, 148, 323, 325, 452, 149 of I.P.C.

3. The incident in question relates to the year 1982. In the year 1983, the Chief Judicial Magistrate, Dehradun, committed the case to the court of Sessions for trial, as one of the sections in which the charge sheet was submitted was Section 308 of I.P.C. It appears that at the time of framing of the charge by the Sessions Judge in sessions trial, when it decided to frame charge u/s 308 of I.P.C., the accused challenged the same before the Allahabad High Court by filing a petition u/s 482 of Code of Criminal Procedure Said High Court vide its order dated 07.01.1991, set aside the order challenged in said petition, and directed the Chief Judicial Magistrate to hear the matter afresh. The Magistrate, after

recording statement of the Medical Officer who examined the injuries, again committed the case to the court of Sessions. But, in the year 1998, Sessions court after hearing the parties, observed that there is no material to frame charge of offence punishable u/s 308 of I.P.C. against the accused. It appears that the complainant challenged said order in the High Court, and case was once again remanded back to the trial court. The trial court (Special Judicial Magistrate II, Dehradun), after hearing the parties, vide its order dated 25.07.2005, decided to frame charge in respect of offences punishable u/s 147, 148, 323, 325, 452, 149 of I.P.C. which was once again challenged by the injured Jitendra Mohan Chaddha by filing Criminal Revision No. 44 of 2010, before the Sessions Judge, Dehradun. Vide impugned order dated 04.04.2011, Sessions Judge concurred with the view taken by the Magistrate.

4. Learned Counsel for the Petitioner argued that the trial court and revisional court have erred in law in holding that there is sufficient material to frame charge of offence punishable u/s 308 of I.P.C.

5. Considering the period for which the criminal case is pending and not progressing because of interference by the higher courts for one reason or the other, this Court is not inclined to interfere with the trial of the case, in its jurisdiction u/s 482 of Code of Criminal Procedure Otherwise also there appears no illegality in the impugned orders.

6. Therefore, without expressing any opinion as to the final merits of the case, this petition u/s 482 of Code of Criminal Procedure is dismissed summarily.