

(2011) 06 UK CK 0066

In the Uttarakhand High Court

Case No : Criminal Miscellaneous Application (C-482) No. 545 of 2011

Lahaur Singh, Sunny Kumar and Navneet

APPELLANT

Vs

State of Uttarakhand and Ashok Saini

RESPONDENT

Date of Decision : 23-06-2011

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 362, 482
Penal Code, 1860 (IPC) — Section 147, 323, 325, 326

Citation : (2011) 06 UK CK 0066

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 Code of Criminal Procedure, 1973 (for short Code of Criminal Procedure), the Petitioners have sought quashing of the order dated 10.06.2011, passed by Sessions Judge, Haridwar, in criminal revision No. 4 of 2011, whereby said court has set aside the order dated 15.09.2010, passed by the trial court.

3. Brief facts, of the case are that crime No. 123 of 2010, relating to offences punishable u/s 147, 323 IPC, was registered at Police Station Jwalapur against the accused Lahaur Singh. After investigation charge sheet appears to have been filed in respect of offences punishable u/s 147, 323, 326 IPC. There was cross case in which also charge sheet was filed. It appears that on the basis of the charge sheet filed against Lahaur Singh case No. 451 of 2010, was registered, and after taking cognizance, the Magistrate summoned the accused vide his order dated 07.08.2010. On 15.09.2010, it appears that investigating officer moved an application to permit him to score of Section 326 IPC, from the charge sheet, and to substitute it by offence punishable u/s 325 IPC. The Magistrate not only allowed the application but also scored of Section 326 IPC from the charge sheet and also in the summoning order, and substituted it by Section 325 IPC.

The complainant/injured appears to have filed criminal revision against said order and, the impugned order was passed after hearing the parties holding that the Magistrate had erred in law in making correction in the charge sheet as well as in the summoning order.

4. Learned Counsel for the Petitioner relied on the provision contained in 362 Code of Criminal Procedure. Said section applies to the judgments and final orders and, not meant for making correction in the charge sheet, and interlocutory summoning order in police chalani case. This Court does not find any error of law committed by the revisional court in setting aside the order passed by the trial court. Learned Counsel for the Petitioner submitted that two of the injured have compounded the offence with the accused Lahaur Singh. And Section 326 is non compoundable.

5. If the two of the injured have entered into compromise with the accused that does not entitle them to get allowed correction in the charge sheet, and the summoning order, in the manner it is done by the Magistrate in the present case.

6. Having considered submissions of learned Counsel for the parties, and after going through the papers on record, this Court is not inclined to interfere with the order passed by the revisional court.

7. Therefore, without expressing any opinion as to final merits of the trial, this petition is dismissed summarily with the observation that this Court has not examined effect of compromise if any between accused and the two injured.