
(2011) 08 UK CK 0114

In the Uttarakhand High Court

Case No : Criminal Miscellaneous Application No. 160 of 2006

Mehraj Ali @ Adil and Others

APPELLANT

Vs

State of Uttaranchal and Another

RESPONDENT

Date of Decision : 19-08-2011

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Dowry Prohibition Act, 1961 — Section 3, 4
Penal Code, 1860 (IPC) — Section 498A

Citation : (2011) 08 UK CK 0114

Hon'ble Judges : Servesch Kumar Gupta, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Servesch Kumar Gupta, J.—The present Criminal Miscellaneous Application has been filed before this Court to invoke its jurisdiction u/s 482 Code of Criminal Procedure for quashing of the proceedings of Criminal Case No. 255/2006 u/s 498A Indian Penal Code read with Section 3/4 of the Dowry Prohibition Act, pertaining to police station Kashipur, District Udham Singh Nagar, pending in the court of Judicial Magistrate, Kashipur. The applicants have also sought to quash the cognizance order dated 28.2.2006 passed upon the chargesheet in Crime No. 153/2006 for the above offences against all the applicants.

2. The background facts sans unnecessary details are that Mehraj Ali and Smt. Ruksana Parveen tied their nuptial knot on 15.1.2006 at Kashipur. The Dawat-e-ulima (reception of the marriage) was organized on 17.1.2006 at the residence of Mehraj Ali at Moradabad. It is also pertinent to mention that just on 16.1.2006 i.e. on the next date of said marriage, the brother of Smt. Ruksana Parveen was also wedded at Kashipur. So, Mehraj Ali along with his few near relatives went to attend the marriage of the brother of Smt. Ruksana Parveen at Kashipur. Unfortunately, it transpires that immediately after the wedding, the relations between the couple and the two cross families could not remain cordial and the

situation worsened when Jahid Ali (brother of Mehraj) along with groom Mehraj, his mother, sister and other near relatives went to fetch Smt. Ruksana Parveen on the 5th day of the marriage at her parent's house at Kashipur. There arose some altercations and the situation was flared up allegedly to the extent that sister Smt. Firdosh and mother Smt. Farmida were confined in the room by the family members of Smt. Ruksana. Sister Smt. Firdosh was allegedly beaten and jewellery which she and Smt. Farmida were wearing, forcibly taken away from them. Jahid Ali informed the entire incident to the SHO, Kotwali, Kashipur on 20.1.2006 itself, but the police remained inactive. So, the father of the groom, Razak Shah complained to the National Human Rights Commission on 21.1.2006 narrating the same facts as were entailed in the application moved to the SHO, Kashipur.

3. It has been argued on behalf of all the applicants that Smt. Ruksana was misled by her parents and family members, and as a counter-blast, moved an application to the Senior Superintendent of Police, Udham Singh Nagar on 23.1.2006, whereupon the orders were made by the SSP to lodge the FIR and it could be lodged accordingly on 28.1.2006. As per the contents of the FIR, when Smt. Ruksana came to her in-laws' house soon after her marriage, she noticed that all the applicants, namely, Razak Shah (father-in-law), Smt. Farmida (mother-in-law), Zahid Shah (elder brother-in-law), Rijwan Shah (younger brother-in-law), Smt. Vuiea (sister-in-law), Idul Shah (husband of Smt. Vuiea) and Mehandi Hasan (father-in-law of Smt. Vuiea, groom's sister) were talking among themselves regarding the insufficient dowry given by the father of Smt. Ruksana in the marriage. They were also instigating her husband Mehraj Ali to demand one Maruti Car nay rupees one lakh in cash as dowry. With this main allegation, inter alia, the FIR was lodged and the police after investigation submitted the chargesheet as above. Upon submission of the chargesheet, the Magistrate has passed the cognizance order dated 28.2.2006 and thereby summoned all the applicants to stand trial. It is against the chargesheet and the cognizance order, this petition has been filed before this Court.

4. Learned Brief Holder for the State submitted that during investigation, 161 Code of Criminal Procedure statements were recorded which include the statements of Suvrati Shah (father of bride Ruksana) and Jakir Husain (brother of bride) and besides the statement of the bride herself. They have corroborated the facts as have been alleged in the FIR, on the basis whereof the chargesheet has been submitted by the police.

5. Here, while exercising the power u/s 482 Code of Criminal Procedure, the Court has to observe whether the process of law has been rightly initiated or is it sheer abuse of the process of court on the part of the complainant just to harass the applicants unscrupulously. It is strange enough that No. date has been mentioned in the FIR as to on what date and time, Smt. Ruksana heard all these talks alleged to have taken place among the applicants at a single place regarding insufficient dowry offered by her father in the marriage as well as the

instigation by all the applicants simultaneously to her husband Mehraj Ali for raising demand of dowry including Maruti Car and rupees one lakh in cash. It is somewhat not natural that just after the arrival of Smt. Ruksana at her in-laws' house either in the evening of 15.1.2006 or in the morning of 16.1.2006, all the applicants were found instigating Mehraj Ali as aforementioned. Needless to say that on 16.1.2006, Mehraj Ali along with Smt. Ruksana might have left in the morning itself to attend the wedding of the brother of Smt. Ruksana at Kashipur. Otherwise also, this FIR, with the allegations as stated above, appears to be a sheer counterblast of the report which was given by Jahid Ali, brother of groom to the SHO, Kotwali, Kashipur, besides an application moved to the National Human Rights Commission by Razak Shah, father of the groom.

6. It appears that the Investigation Officer without entering into the depth of the dispute and without genuinely verifying the allegations has submitted the chargesheet against all the applicants mechanically and the Magistrate concerned too has passed the order of cognizance in the same tone and tenor as has been adopted by the Investigation Officer in submitting the chargesheet.

7. In view of the above, this Court is of the view that the chargesheet should not be allowed to remain sustained against the applicants No. 2 to 8 and it is liable to be quashed to this extent.

8. Accordingly, the petition is partly allowed. The chargesheet and the cognizance order, while leaving alive against Mehraj Ali, are quashed against Razak Shah, Smt. Farmida, Zahid Shah, Rijwan Shah, Smt. Vuiea, Idlu Shah and Mehendi Hasan.

9. Let a copy of this order be sent to the court concerned so that the trial against the accused applicant Mehraj Ali may proceed further.