
(2010) 06 UK CK 0058
In the Uttarakhand High Court

Mradul Agarwal

APPELLANT

Vs

State of Uttarakhand and Shri Satya Prakash Gupta

RESPONDENT

Date of Decision : 08-06-2010

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Dowry Prohibition Act, 1961 — Section 3, 4
Penal Code, 1860 (IPC) — Section 323, 498A, 504

Citation : (2010) 06 UK CK 0058

Hon'ble Judges : Prafulla C. Pant, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Prafulla C. Pant, J.—Heard learned Counsel for the parties.

2. By means of this petition, moved u/s 482 of the Code of Criminal Procedure, 1973 (for short Cr.P.C.), the petitioner has sought quashing of the proceedings of Criminal Case No. 493 of 2010; State v. Mradul Agarwal, relating to offences punishable u/s 498-A, 323, 504 of I.P.C., and one punishable u/s 3/4 of the Dowry Prohibition Act, 1961, pending in the court of Chief Judicial Magistrate, Dehradun. The petitioner has further challenged the order dated 26.05.2010, passed by the Sessions Judge, Dehradun, in Criminal Misc. Application No. 79 of 2010, whereby said court has dismissed the revision of the petitioner.

3. Brief facts of the case are that the petitioner got married to Smt. Bharti, daughter of respondent No. 2 (complainant), about six years before. A daughter is born out of the wedlock after one year of the marriage. A first information report was lodged by the respondent No. 2 on 09.01.2010, alleging that after the birth of the female child, the petitioner started harassing his wife and treated her with cruelty. It is also alleged that demand of dowry was also made. It is also alleged that the complainant's daughter was subjected to physical assault. It appears that after investigation, charge sheet has been filed against the petitioner in respect of aforesaid offences, before the Magistrate concerned.

Against the order dated 25.02.2010, by which the petitioner was summoned by the trial court after taking cognizance, the petitioner filed a criminal revision which was registered as Criminal Misc. Application No. 79 of 2010, by the Sessions Judge. After hearing the petitioner, said revision was dismissed vide order dated 26.05.2010.

4. Learned Counsel for the petitioner drew attention of this Court to the order sheet annexed as Annexure - 14 to the petition, which shows that the Magistrate has again taken cognizance of the same offence. Learned Counsel for the petitioner submitted that the order suffers from illegality, and the trial is vitiated.

5. On carefully going through the order sheet of the impugned criminal trial, this Court finds that in fact cognizance of the offence was taken by the Magistrate on 25.02.2010. Since, while dismissing the revision the Sessions Judge had advised the Magistrate that he should also mention the Sections while taking cognizance and issuing summons against the accused, it appears that in compliance of said order the Magistrate has clarified the Sections in order dated 29.05.2010. Said order cannot be said to be a fresh cognizance order.

6. As to the innocence of the petitioner which is pleaded in the petition, this Court is of the view that the same can be appreciated by the trial court after recording the evidence. This Court is not inclined to hold as to whether the petitioner is innocent or not, with halfbaked evidence before it.

7. For the reasons as discussed above, without expressing any opinion as to the final merits of the case, this petition u/s 482 of Cr.P.C. is dismissed with the observation that if the petitioner surrenders in the Criminal Case No. 493 of 2010, State v. Mradul Agarwal, relating to offences punishable u/s 498A, 323, 504 of I.P.C., and one punishable u/s 3/4 of the Dowry Prohibition Act, 1961, pending before the Chief Judicial Magistrate, Dehradun, and moves application for bail, his bail application shall be heard and disposed of without unreasonable delay.