
(2021) 09 UK CK 0300

In the Uttarakhand High Court

Case No : Criminal Miscellaneous Application (C482) No. 967 Of 2021

Navneet Gupta & Ors

APPELLANT

Vs

State of Uttarakhand & Anr

RESPONDENT

Date of Decision : 27-09-2021

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 155(2), 156(1), 482
Indian Penal Code, 1860 — Section 302, 323, 498A, 506
Dowry Prohibition Act, 1961 — Section 3, 4
Hindu Marriage Act, 1955 — Section 138B

Citation : (2021) 09 UK CK 0300

Hon'ble Judges : R.C. Khulbe, J

Bench : Single Bench

Final Decision : Disposed Of

Judgement

R.C. Khulbe, J

1. By means of present application, filed under Section 482 Cr.P.C., the applicants have sought quashing of the entire proceedings of Criminal Case No. 3909 of 2018, State vs. Navneet & others, under Sections 498A, 323, 506 IPC and under Section 3/4 of the Dowry Prohibition Act pending before the Judicial Magistrate-II, Dehradun.

2. Heard.

3. Respondent no. 2 Vineeta Gupta submitted information on 09.08.2017 with P.S. Vasant Vihar, Dehradun regarding demand of dowry; accordingly on the basis of said information FIR No. 902 of 2017 was registered under Sections 498A, 302, 506 IPC and under Section 3/4 of the D.P. Act; after completion of the investigation charge sheet was submitted against the applicants; the concerned court took the cognizance on 02.06.2018; aggrieved it, the present petition under Section 482 Cr.P.C. for quashing the entire proceedings has been preferred.

4. Applicant no. 1 Naveen Gupta is the husband while other applicants are the family members of respondent no.2; a compromise has taken place between the parties; applicant no. 1 Naveen Gupta and respondent no. 2 Vineeta Gupta filed a divorce petition No. 1186 of 2019, Naveen Gupta vs. Smt. Vineeta Gupta, under Section 138-B of the Hindu Marriage Act by way of mutual consent; the said divorce petition was allowed vide order dated 16.06.2021 passed by the Principal Judge, Family Court, Dehradun

5. It is submitted that the present FIR was lodged by the informant with misconception of facts; there is no evidence against the applicants regarding demand of dowry or torture.

6. A counter affidavit has been filed by Respondent no.2 Smt. Vineeta Gupta wherein it is mentioned that a compromise has taken place between the parties, accordingly, divorce decree has been granted by way of mutual consent and prayed that present petition may be allowed.

7. From the perusal of the judgment dated 16.06.2021 passed by the Principal Judge, Family Court, Dehradun in divorce petition no. 1186 of 2019 it would reveal that parties filed a divorce petition under Section 13-B of the Hindu Marriage Act whereby statements were recorded; accordingly, on the basis of the evidence, the concerned Judge came to this conclusion that said application was filed mutually; there was no coercion and allowed the application and the marriage has been dissolved by decree of divorce.

8. As per the documents it is clear that respondent no.2 submitted the application with misconception of facts while there is no evidence against the applicants under Sections 498A, 323, 506 IPC and under Section 3/4 of the D.P. Act; the concerned court took the cognizance simply on the basis of charge sheet submitted by the I.O. while prima facie there is no evidence against the applicant.

9. The Hon'ble Supreme Court in the case of State of Haryana and others v. Bhajan Lal & others, reported in 1992 Supp (1) SCC 335, has considered, in detail, the provisions of Section 482 Cr.P.C., and the power of the High Court to quash criminal proceedings or FIR. The Hon'ble Supreme Court summarized the legal position by laying the following guidelines to be followed by High Courts in exercise of their inherent powers to quash a criminal complaint: -

1. "Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

2. Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

3. Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any

offence and make out a case against the accused.

4. Where the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

5. Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which, no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

6. Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or, where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

7. Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.

10. Considering the fact and circumstances of the case, in the light of aforesaid judgments, prima facie, there is no evidence against the applicants in the aforesaid sections.

11. Accordingly, the instant petition deserves to be allowed, and accordingly allowed. In consequence, the entire proceedings of Criminal Case No. 3909 of 2018, State vs. Navneet & others, under Sections 498A, 323, 506 IPC and under Section 3/4 of the Dowry Prohibition Act pending before the Judicial Magistrate-II, Dehradun are hereby quashed qua the applicants.

12. Present C482 petition is disposed of in the aforesaid terms.

13. Pending application, if any, also stands disposed of.