

(2022) 07 UK CK 0162

In the Uttarakhand High Court

Case No : Criminal Miscellaneous Application No. 1301 Of 2022

Parvinder Kumar And Another

APPELLANT

Vs

State Of Uttarakhand And Another

RESPONDENT

Date of Decision : 29-07-2022

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 156(3), 202, 482

Indian Penal Code, 1860 — Section 120B, 323, 420, 467, 468, 504, 506

Citation : (2022) 07 UK CK 0162

Hon'ble Judges : Alok Kumar Verma, J

Bench : Single Bench

Advocate : Alok Kumar, Pramod Tiwari

Final Decision : Dismissed

Judgement

Alok Kumar Verma, J

1. The respondent no. 2-Pramod Kumar, complainant, had filed an application under Section 156(3) of the Code of Criminal Procedure, 1973, before the Additional Chief Judicial Magistrate, Laksar, District Haridwar. The said application was converted into a complaint. The learned trial court took the cognizance on the complaint and after inquiry, on 09.12.2013, passed the summoning order under Sections 420, 467, 468, 120B, 323, 504 and 506 of IPC against the present applicants-accused persons. The applicants-accused persons preferred a Criminal Revision against the said summoning order dated 09.12.2013. On 13.06.2022, the said Criminal Revision (No. 48 of 2014) has been rejected by the First Additional District and Sessions Judge, Haridwar.

2. The applicants-accused persons have invoked the inherent jurisdiction of this High Court under Section 482 of the Code of Criminal Procedure, 1973 to set-aside the impugned summoning order dated 09.12.2013 and the judgment dated 13.06.2022, passed by the Revisional Court.

3. According to the complaint, filed by the respondent no. 2-complainant, the

applicants-accused persons had demanded Rs. 70,000/- from the complainant while assuring him that he would get a job in Birla Tyre. The complainant had given Rs. 30,000/- to the applicants-accused persons before the Witness Suresh Pal (CW1) and the Witness Bhanwar Singh (CW2) on 01.12.2009. On 06.12.2009, the applicants-accused persons had given a fake joining letter of Birla Company to the complainant, while the complainant had given the remaining amount i.e. Rs. 40,000/- to them in front of the witnesses. On 19.04.2013, the complainant demanded his money from the applicants-accused persons. Then, the applicants-accused persons abused and threatened the complainant and assaulted him.

4. Heard Mr. Alok Kumar, the learned counsel for the applicants and Mr. Pramod Tiwari, the learned Brief Holder for the State.

5. Mr. Alok Kumar, the learned counsel appearing for the applicants-accused persons, submitted that the applicants have been implicated in this matter; all the allegations of the complaint are false; one Sanjay had received the amount from the complainant; the said appointment letter was given by Sanjay; the said appointment letter was not given by the applicants-accused persons; the complainant and both the witnesses namely, Bhanwar Singh and Suresh Singh are relatives; the applicant-accused Rajendra Singh got married to Vinita, a girl from the family of the witness Bhanwar Singh; the said marriage created the tension, dispute and enmity amongst the families of the present applicants and the witness Bhanwar Singh and due to the said enmity, the applicants have been implicated in this matter.

6. It is well settled that for the issue of process against the accused, it has to be only seen whether prima facie case has been made out. The Magistrate is not required to go deep into the probative value of the material on record.

7. In *Sonu Gupta vs. Deepak Gupta and Others*; (2015) 3 SCC 424, the Hon'ble Supreme Court has held that at the stage of cognizance and summoning, the Magistrate is required to apply his judicial mind only with a view to take cognizance of the offence, or, in other words, to find out whether prima facie case has been made out for summoning the accused persons.

8. After perusal of the record, a prima facie case is made out against the applicants-accused persons. The witnesses, under Section 202 of the Code of Criminal Procedure, 1973, have supported the case of the complainant.

9. The submissions of the learned counsel appearing for the applicants-accused persons are required to be tested only at the time of the trial. This Court cannot hold a parallel trial in an application, under Section 482 of the Code of Criminal Procedure, 1973.

10. This Court would not also examine the genuineness of the allegations/ defence version, since this Court does not function as a Court of Appeal or Revision, while exercising its jurisdiction under Section 482 of the Code of

Criminal Procedure, 1973. Apart from this, in this matter, at this stage, it cannot be said that there are no allegations against the applicants-accused persons.

11. Therefore, the application filed, under Section 482 of the Code of Criminal Procedure, 1973 has no force, the said application is liable to be dismissed. Consequently, the said application, filed under Section 482 of the Code of Criminal Procedure, 1973, is dismissed at the admission stage.

12. Since, the case has to be tried, I make it clear that the observations made earlier are only for the disposal of the application, filed under Section 482 of the Code of Criminal Procedure, 1973. These observations will not influence the trial court while deciding the case.

13. The said Complaint Case is very old. Therefore, the learned trial court is directed to expedite the said case and decide the same, in accordance with law, as expeditiously as possible, without granting any unnecessary adjournment to the either parties.