
(2012) 07 UK CK 0024

In the Uttarakhand High Court

Case No : Criminal Miscellaneous Application (C 482) No. 251 of 2010

Prem Sagar and Others

APPELLANT

Vs

State of Uttarakhand and Others

RESPONDENT

Date of Decision : 26-07-2012

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482

Penal Code, 1860 (IPC) — Section 147, 189, 325

Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 —
Section 3(1)(x), 3(1)(x)

Citation : (2012) 2 NCC 876

Hon'ble Judges : Prafulla C. Pant, J

Bench : Single Bench

Advocate : R.S. Sammal, with Mr. Prem Kaushal and Mr. B.S. Bhandari, for the Appellant; Sangeeta Miyan, Brief Holder for the State and Mr. Manoj Mohan, Advocate, for the Respondent No. 2, for the Respondent

Judgement

Prafulla C. Pant, J.—Heard. By means of this petition, moved u/s 482 of Cr.P.C., the petitioners have sought quashing of the proceedings of Criminal Case No. 06 of 2010, State Vs. Om Prakash and others, relating to offences punishable u/s 325, 189, 147 of I.P.C., and one punishable u/s 3(1) (x) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, Tehsil Dhari, pending in the court of Chief Judicial Magistrate, Nainital.

2. Brief facts of the case are that the respondent No. 2, who was Principal of Government Inter College, Josyura, lodged a First Information Report against the petitioners, who were Teachers in the College. It is alleged that the petitioners formed an unlawful assembly and assaulted him. The complainant has further alleged that he was insulted as he was a member of Scheduled Caste. After investigation, it appears that the Investigating Officer, submitted charge sheet against the petitioners.

3. Learned counsel for the petitioners submitted that the petitioner No. 1 is

himself a member of Scheduled Caste. So is petitioner No. 4. It is pleaded that petitioner No. 5 is a member of Scheduled Tribe. As such, it is submitted that the petitioners had no occasion to insult the respondent no. 2, for his being a member of Scheduled Caste. It is also stated that the respondent No. 2 has nowhere stated that the petitioners did not belong either to Scheduled Caste or to Scheduled Tribe. In the counter affidavit filed on behalf of the respondent No. 2 and the State, it is nowhere stated as to which caste the petitioners belong.

4. In the above circumstances, even if the evidence collected by the Investigating Officer is taken to be true, it cannot be said that the provisions of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 are attracted in the present case. As such, the prosecution in respect of the offence punishable under the said Act is liable to be quashed.

5. However, as to the offences punishable under Indian Penal Code, the factual pleas of defence raised by the petitioners that they are innocent, and that the respondent no. 2 has made false allegations, cannot be examined by this Court in its jurisdiction u/s 482 of Cr.P.C. It is for the trial court to examine such pleas, after recording evidence of the parties. Therefore, the petition u/s 482 of Cr.P.C. is partly allowed. The prosecution of the petitioners namely Prem Sagar, Om Prakash, Prem Narayan Singh, Amrit Lal and Lalit Mohan Singh Pangty is hereby quashed, so far as it relates to the offence punishable u/s 3(1)(x) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. However the trial of the petitioners in respect of offences punishable u/s Indian Penal Code is not interfered with. Accordingly, the petition u/s 482 of Cr.P.C., stands disposed of, with the observation that if the petitioners namely Prem Sagar, Om Prakash, Prem Narayan Singh, Amrit Lal and Lalit Mohan Singh Pangty surrender before the court concerned, their bail application shall be heard and disposed of without unreasonable delay, keeping in mind that they are Government servants (Stay Vacation Application No. 1155 of 2011, also stands disposed of).