
(2011) 08 UK CK 0099

In the Uttarakhand High Court

Case No : Criminal Miscellaneous Application No. 891 of 2007

Radha Kant Adhikari and Others

APPELLANT

Vs

State of Uttaranchal and Another

RESPONDENT

Date of Decision : 02-08-2011

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 200, 202, 323, 482, 498
Dowry Prohibition Act, 1961 — Section 3, 4

Citation : (2012) 1 DMC 474 : (2011) 2 NCC 577 : (2011) 2 UC 1452

Hon'ble Judges : Servesesh Kumar Gupta, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Servesesh Kumar Gupta, J.—By way of this criminal miscellaneous application, moved u/s 482 Code of Criminal Procedure, the applicants have challenged the summoning order dated 15.12.2006, passed by the Judicial Magistrate Khatima in Criminal Case No. 1100/2006 Smt. Reena Adhikari v. Radha Kant Adhikari, whereby the applicants have been summoned to face the trial for the offences punishable u/s 498A, 323, 504, 506 Indian Penal Code and one punishable u/s 3/4 of the Dowry Prohibition Act.

2. Brief facts of the case are that Respondent No. 2 Smt. Reena Adhikari lodged a complaint on 28.8.2006 before the Judicial Magistrate, Khatima stating that she got married to the applicant No. 1 Radha Kant Adhikari on 5.9.2004. Her parents gifted articles and ornaments in the marriage as per their status. After sometime of marriage, differences cropped up between the two families on the question of dowry. Radha Kant Adhikari (husband), Anand Adhikari (father-in-law), Namita Adhikari (mother-in-law), Km. Jayanti Adhikari (unmarried sister-in-law), Dhruv Adhikari (younger brother-in-law) and Smt. Sushma (aunt {Bua} of the husband of the Respondent No. 2 and is working as a Nurse in Community Health Centre, Sitarganj), who are the prospective accused, started taunting Smt. Reena Adhikari for bringing insufficient dowry. It is further alleged that

father of the complainant tried to resolve the matter and, accordingly, gave a plot of land in village Bakunthpur as well as sewing machine, interlock machine and rupees twenty thousand cash to Radha Kant Adhikari (husband of the Respondent No. 2) in order to open a tailoring shop on the said plot. But it did not satisfy the hunger of dowry being nurtured by the in-laws of the complainant, and they started harassing her for more dowry. Finally the complainant was ousted from her in-laws' house along with her girl child. It is further alleged that on 24.8.2006, at about 6 am, all the applicants came at the parental house of the complainant and demanded rupees thirty thousand and started abusing her for the same. When the complainant and her parents expressed their inability to fulfill the said demand, then all the applicants assaulted Smt. Reena Adhikari (complainant) at her parental house. On her raising the alarm, Shivpad Mandal, Gaur Chand Sarkar and many other people of the same village came at the place of occurrence and rescued the complainant and her parents. The applicants allegedly threatened that if the complainant shall be sent to her in-laws' house without fulfilling their demand of dowry, then she shall be burnt alive.

3. The learned Magistrate, after recording the statement of the complainant u/s 200 Code of Criminal Procedure and the statements of the witnesses u/s 202 Code of Criminal Procedure, summoned the accused applicants as stated above.

4. Heard learned Counsel for the parties and perused the materials available on record.

5. It has been contended on behalf of the applicants that on the alleged date of incident, that on 24.8.2006, Radha Kant Adhikari (husband) was in Gujarat in search of job. Smt. Sushma, who is aunt (Bua) of Radha Kant Adhikari (husband of the complainant) is working as Nurse and she stays at a distance of 18 kms from the alleged place of occurrence. Furthermore, she was on duty on the alleged date of incident. In support, copy of attendance sheet has also been annexed, albeit the same is illegible. It is further contended that applicants have been falsely implicated in this case

6. All told, the allegations made by the complainant Smt. Reena Adhikari in her complaint, do not, prima facie, inspire the confidence at least against the applicants No. 3 to 6, who are respectively mother-in-law, unmarried sister-in-law, younger brother-in-law and aunt (sister of her father-in-law) of the complainant. It appears to be highly improbable that these persons would accompany Radha Kant Adhikari (husband) and Anand Adhikari (father of Radha Kant Adhikar) and together abused and beat the complainant, that too at her parental house. Furthermore, Smt. Namita Adhikari is an old lady. Applicant No. 6 Smt. Sushma, who is aunt (Bua) of the complainant, is a married woman and she is living separately and she is not at all the beneficiary of demand of dowry. As such, applicants No. 3 to 6 appear to be falsely implicated being the relatives of the complainant and her husband. Hence, the impugned summoning order is liable to be quashed so far as it relates to the applicants No. 3 to 6.

7. For the reasons stated above, the present miscellaneous application u/s 482 Code of Criminal Procedure is partly allowed. Impugned summoning order dated 15.12.2006, passed by the Judicial Magistrate, Khatima in Criminal Case No. 1100/2006, is quashed only in respect of applicants No. 3 to 6, namely, Smt. Namita Adhikari, Km. Jayanti Adhikari, Dhruv Adhikari and Smt. Sushma, However, learned trial court shall proceed with the trial against the applicant No. 1 Radha Kant Adhikari and applicant No. 2 Anand Adhikari. Accordingly, interim order dated 29.11.2007 stands vacated so far as it relates to applicants No. 1 & 2.