
(2013) 11 UK CK 0003

In the Uttarakhand High Court

Case No : Criminal Miscellaneous Application No. 543 of 2010

Rajendra Singh two and Others

APPELLANT

Vs

State of Uttarakhand and Another

RESPONDENT

Date of Decision : 12-11-2013

Acts Referred:

Citation : (2014) 1 DMC 609 : (2013) 3 UC 2236

Hon'ble Judges : Umesh Chandra Dhyani, J

Bench : Single Bench

Judgement

Umesh Chandra Dhyani, J.—Since both these application u/s 482 Cr.P.C. arise out of one first information report, therefore, they are being decided by this common judgment and order for the sake of brevity.

2. The applicants, by means of present petitions/applications moved u/s 482 Cr.P.C., seek to quash the charge sheet dated 18.04.2010 as well as impugned summoning order dated 11.05.2010 passed in Criminal Case No. 5852 of 2010, State v. Amit Kumar & others, under Sections 323, 504, 506, 498-A IPC and 3/4 of the Dowry Prohibition Act, pending in the Court of 3rd Additional Chief Judicial Magistrate, Dehradun.

3. Respondent No. 2 Smt. Pragati Deshwal lodged a first information report on 17.02.2010 at P.S. Basant Bihar, District Dehradun, which was registered as case crime No. 17 of 2010, under Sections 323, 504, 506, 498-A IPC and Section 3/4 of the Dowry Prohibition Act against Amit Kumar (husband), Indrapal Singh (father-in-law), Smt. Ranviri (mother-in-law), Smt. Amita (married sister-in-law), Priti (unmarried sister-in-law), Ankur (brother-in-law), Priyanka (unmarried sister-in-law), Krishna Kumar (brother-in-law), Rajendra Singh (maternal uncle) and Puja (unmarried sister-in-law).

4. After the investigation, a charge-sheet was submitted against the accused persons for the selfsame offences. Cognizance was taken. Aggrieved against the same, present applications u/s 482 Cr.P.C. were filed by the seven accused

persons (applicants).

5. The husband, father-in-law and brother-in-law (Ankur) are not the applicants before this Court.

6. Learned counsel for the applicants submitted, among other things, that on perusal of the first information report as well as the evidence on record, it is clear that the informant (respondent No. 2 herein) is resident of Baraut, district Bagpat (UP.) and the applicants are the residents of Bainsi, district Muzaffar Nagar (U.P.) and Meerut (U.P.). None of the parties has any concern with district Dehradun. The said submission was reflected in para 33 of the Criminal Misc. Application No. 567 of 2010 (u/s 482 Cr.P.C.).

7. This Court was taken through the contents of the first information report by the learned counsel for the respondent No. 2. A reading of the first information report reveals that the incident allegedly took place either at Bagpat (U.P.) or at Gurgawan (Haryana) or at Muzaffar Nagar (U.P.). No incident, as alleged against the present applicants, took place at Dehradun or within the jurisdiction of State of Uttarakhand. There are only two sentences in the first information report, which relate to district Dehradun. The first sentence is that Amit (husband of respondent No. 2) brought respondent No. 2 to Dehradun on 21.11.2009 at the residence of her uncle and expressed his unwillingness to live with her, which hardly constitutes an offence. Foundation of criminal offence at Dehradun is not laid. The second sentence, which figured "Dehradun" was that the respondent No. 2 was living with her uncle there (at Dehradun). Dehradun was neither her parental home, nor matrimonial home, nor the place of incident, nor the permanent residence of her or any of the accused persons. The offence did not continue at Dehradun. Its consequence did not ensue there. The couple or any of the spouse did not reside at Dehradun. It was nowhere alleged in the first information report that any offence was committed at Dehradun,

8. Assuming for the sake of arguments that any incident took place at Dehradun, the same was, at the most, against the husband of respondent No. 2 and not against the present applicants. It is brought to the notice of this Court that the husband, father-in-law and one brother-in-law (non-applicants) have been granted bail by the Magistrate concerned.

9. Hon''ble Apex Court has also provided note of caution to High Courts in Preeti Gupta and Another Vs. State of Jharkhand and Another, in the following words:

To find out the truth is a Herculean task in a majority of these complaints. The tendency of implicating the husband and all his immediate relations is also not uncommon. At times, even after the conclusion of the criminal trial, it is difficult to ascertain the real truth. The courts have to be extremely careful and cautious in dealing with these complaints and must take pragmatic realities into consideration while dealing with matrimonial cases.

Hon''ble Apex Court cautioned that the allegations of such complaints are

required to be scrutinized with great care and circumspection, especially against those relatives of the husband, who have, perhaps, never visited the place where the incident was alleged to have taken place.

10. Chapter XIII of the Code of Criminal Procedure, 1973 provides for the jurisdiction of the criminal courts in inquiries and trials. Section 177 Cr.P.C. deals with ordinary place of inquiry and trial Section 178 of the Cr.P.C. deals with the place of inquiry or trial. Section 179 of Cr.P.C. speaks about "offence triable where act is done or consequence ensues". What will be the "place of trial, where the act is an offence by reason of relation to other offence", is provided u/s 180 Cr.P.C. Section 181 throws light upon the place of trial in case of certain other offences. Sections 182 to 189 Cr.P.C. deal with other aspects of jurisdiction of the criminal courts. In the instant case, even a bare reading of the first information report nowhere indicates that any offence was committed within the jurisdiction of district Dehradun (Uttarakhand) by the applicants. It is, therefore, held that the Court at Dehradun has no territorial jurisdiction to try the offences complained of against the applicants. There is, however, no bar if the offences complained of against the applicants are tried by the Courts having territorial jurisdiction to take cognizance of such offences.

11. In such a situation, this Court should intervene in exercise of its inherent jurisdiction. The applications u/s 482 Cr.P.C. filed on behalf of the applicants are, therefore, allowed. Cognizance order dated 11.05.2010 is hereby set aside qua applicants only. Accordingly, it is held that the Court at Dehradun has no territorial jurisdiction to take cognizance of the offences complained of against the present applicants.

12. Liberty is, however, granted to the respondent No. 2 to pursue her matter against present applicants before the Court (s) having territorial jurisdiction to take cognizance of such offences.