
(2019) 09 UK CK 0145

In the Uttarakhand High Court

Case No : Criminal Miscellaneous Application (C-482) No. 1470 Of 2014

Ram Lakhan Yadav & Others

APPELLANT

Vs

State Of Uttarakhand And Another

RESPONDENT

Date of Decision : 21-09-2019

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 482

Indian Penal Code, 1860 — Section 147, 148, 149, 323, 324, 427, 452, 504

Citation : (2019) 09 UK CK 0145

Hon'ble Judges : N.S. Dhanik, J

Bench : Single Bench

Advocate : Shobit Pratap, S.K. Mandal, Farida Siddiqui, Shankar Agarwal, Ramji Srivastava

Final Decision : Dismissed

Judgement

N.S. Dhanik, J

1. By means of this application under Section 482 Cr.P.C., applicants have prayed for quashing the Criminal Case No. 4334 of 2014, "State vs. Ram Lakhan & others" arising out of FIR No. 141 of 2014, under Sections 147, 148, 149, 452, 323, 324, 504 & 427 of IPC, registered at P.S. Kiccha, District Udham Singh Nagar, pending before the Court of learned Judicial Magistrate Rudrapur, District Udham Singh Nagar.

2. Facts, in brief, are that on 26.04.2014 respondent no. 2 (Hari Om) lodged an F.I.R. against the accused applicants stating therein that he looks after the house of a retired doctor situated in Old Hospital Campus Kiccha, District Udham Singh Nagar and he along with his family members lives in one of the rooms in the said house. In the said campus, accused applicants also live and since long they are trying to grab the said house of the Doctor. On 26.04.2014 at around 10:30 p.m. accused applicant no. 1 along with his sons armed with Lathi, Danda and rods broke open the lock of the house of the said Doctor and after entering into the house, they hurled abusive and filthy language and threatened them to kill, if

they would not vacate the house. Thereafter, the accused applicant no. 2 assaulted the complainant's father with iron rod in which he suffered serious injuries on his head and became seriously injured. The complainant somehow managed to close the door and saved himself and the family members. Thereafter, the accused persons started throwing stones and bricks and again tried to enter into the house, however, the people of the vicinity gathered there and thereafter, the accused applicants fled away from the spot.

3. Pursuant to the FIR lodged by the respondent no. 2, investigation was made and police submitted the charge-sheet against the present applicants and thereafter the Court below has summoned the applicants to face trial for the aforementioned offences.

4. The main contention of the learned counsel for the applicants is that it was the complainant and his companions who were real aggressors and in fact, they assaulted the accused applicants, in which son of the accused applicant no. 1 suffered serious injuries on 26.04.2014 at around 10:30 p.m., but the police did not lodge the report and in collusion with the complainant/respondent no. 2, a false report was lodged against the accused applicants. Learned counsel for the applicants further contends that applicants thereafter lodged the complaint case and by orders of the Magistrate, an F.I.R. has been registered against the complainant/respondent no. 2 and his companions.

5. Having heard the contentions of learned counsel for the parties, I do not find any substance in this C482 application, inasmuch as, specific allegations have been made against the accused applicants. Considering overall facts and circumstances of the case, as discussed hereinabove, I am of the opinion that disputed questions of fact are involved in the present case and the allegations made in the complaint, if taken at their face value and accepted in their entirety, do prima facie make out a case against the accused applicants.

6. It is a settled law that power under Section 482 CrPC requires great caution in its exercise. A Constitution Bench of the Hon'ble Apex Court has elaborately discussed such scope in the case of *Inder Mohan Goswami & Another v. State of Uttaranchal & others*, (2008) 1 SCC (Cri) 259, and has held that inherent power under Section 482 CrPC can be exercised: (i) to give effect to an order under the Code; (ii) to prevent abuse of the process of court, and (iii) to otherwise secure the ends of justice. If any abuse of the process leading to injustice is brought to the notice of the court, then the court would be justified in preventing injustice by invoking inherent powers. However, the inherent power should not be exercised to stifle a legitimate prosecution.

7. In view of what has been set forth above, I do not find any force in this petition. Consequently, the present C482 petition is dismissed. Interim order, if any, stands vacated. Inform the Court concerned accordingly.