

(2011) 07 UK CK 0035

In the Uttarakhand High Court

Case No : Criminal Miscellaneous Application No. 180 of 2007

Ram Prakash @ Prabhu, Hari Prakash Bhat, Smt. Kusum @
Basundhara, Amit and Vinod Kumar

APPELLANT

Vs

State of Uttarakhand, District and Sessions Judge, Additional
Chief Judicial Magistrate and Smt. Usha

RESPONDENT

Date of Decision : 27-07-2011

Acts Referred:

Citation : (2011) 07 UK CK 0035

Hon'ble Judges : Servesch Kumar Gupta, J

Bench : Single Bench

Judgement

Servesch Kumar Gupta, J.—By way of this Criminal Misc. application, applicants have challenged the cognizance order passed by Additional Judicial Magistrate, Kashipur on 18.08.2006 which was confirmed by learned Sessions Judge, Udham Singh Nagar in Revision No. 97 of 2006 on dated 09.03.2007.

2. The background facts sans unnecessary details are that way back in 2006, a mutual talks commenced for establishment to the matrimonial relations of the applicant Ram Prakash @ Prabhu alongwith Km. Pooja. Sri Ram Prakash and other applicants belong from Sonipat (Haryana) while the bride Pooja and her parents, brother belong to town Kashipur District Udham Singh Nagar. On advancement of mutual talks for matrimonial relations, the things could not take final shape and Km. Pooja alongwith her widow mother Smt. Usha could not agree with this relationship. Sri Ram Prakash and his family members were adamant for establishing the matrimonial relationship with Km. Pooja. In order to achieve the goal, Sri Ram Prakash filed a civil suit No. 192 of 2006 in the court of Civil Judge (S.D.), Sonipat on 08.05.2006 wherein an ad-interim injunction order was passed in his favour restraining Km. Pooja to establish the matrimonial relation with any other person till the decision of the suit.

3. Just after passing of an ad-interim injunction against Km. Pooja, she alongwith her mother filed a report in the Women Complaint Cell, Kashipur on 27.05.2006

against Sri Ram Prasad and his family members, which was converted into a complaint case in the court of Judicial Magistrate, Kashipur. After taking the cognizance on 18.08.2006, the Magistrate passed the impugned order. When this order was challenged in the court of Sessions Judge, U.S. Nagar, due to absence of Sri Ram Prakash & other proposed accused persons, Sessions Judge decided the same ex-parte and he found that no illegality has been committed by Magistrate in making cognizance order. Feeling aggrieved, Ram Prakash and others have filed this petition challenging the order of cognizance passed by the Magistrate and order passed by the Revisional court as aforementioned.

4. For judging the substance and genuineness, it would be germane to go through the facts stated in the complaint (annexure No. 1 with affidavit along with petition). This complaint adverts that feeling disappointment on account of refusal by Km. Pooja and her mother for establishment of the matrimonial relation, Sri Ram Prakash, Hari Prakash, Smt. Kusum, Amit and Vinod Kumar (all family members) came to Kashipur on 19.03.2006 and demanded Rs. 5.00 lacs as a ransom alongwith insistence of wedding with Km. Pooja. When Km. Pooja who was in her house alongwith her sister declined to accede, then accused persons started to abuse in a very impertinent manner and threatened her to abduct her from her house. When resisted by Km. Pooja, accused persons whipped out a sharp edged weapon and tried to kill her. On raising screams, the neighbours gathered. Meanwhile, mother and brother of Pooja also had come. They scolded the accused persons. At that time for a spur of a moment, it was failure of power supply and taking advantage of darkness, the accused persons ran away. When accused persons had left, Km. Pooja and her mother noticed that a lock of box was opened in which Rs. 25,000 alongwith jewellery was absent. So they apprehended that the same has been taken away by the accused persons. With these facts, the complainant was lodged to the Women Complaint Cell which was forwarded to the Magistrate and cognizance was taken as stated above.

5. After hearing the learned Counsel for the applicants and going through the backdrop of the case, therewithal the shallowness of the alleged facts, this Court is of the view that the complaint is nothing but a result of the vengeance, which has been inculcated by Km. Pooja and her mother towards the accused persons due to their insistence for wedding with Km. Pooja. In order to give effect to their motive, since Ram Prakash and others filed a suit in court of Civil Judge (S.D.), Sonipat and got an ad interim injunction against Km. Pooja so this complaint is a repercussion to the same and is liable to be quashed. The facts alleged do not inspire confidence. The complaint and order dated 18.08.06 as well as order of Sessions Judge dated 09.03.2007 are quashed.