

(2011) 08 UK CK 0034

In the Uttarakhand High Court

Case No : Criminal Miscellaneous Application (C-482) No. 268 of 2010

R.K. Gupta

APPELLANT

Vs

Smt Priya Malik and State of Uttarakhand

RESPONDENT

Date of Decision : 18-08-2011

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Penal Code, 1860 (IPC) — Section 323, 354, 504, 506

Citation : (2011) 08 UK CK 0034

Hon'ble Judges : Prafulla C. Pant, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Prafulla C. Pant, J.—Heard.

2. By means of this petition moved u/s 482 of Code of Criminal Procedure, 1973, the Petitioner has sought quashing of the proceedings of criminal complaint case No. 810 of 2009 Smt. Priya Malik v. R.K.Gupta, relating to offences punishable u/s 354, 323, 504 and 506 I.P.C., pending in the court of Civil Judge (Junior Division)/ Judicial Magistrate, Haldwani.

3. Heard learned Counsel for the Petitioner, and learned counsel for the State. None present for Respondent No. 1 (who was earlier represented through Shri Vijay Bhatt, Advocate).

4. Brief facts of the case, are that, the Petitioner Shri R.K.Gupta is Chairman of Nainital Almora Kshetriya Gramin Bank, who is on deputation from Bank of Baroda. One U.K.Pahwa was the Branch Manager of the said bank in the Branch Partapur. Shri U.K.Pahwa was transferred to Branch Jhankat. It is pleaded by the Petitioner that Shri U.K.Pahwa committed certain acts of indiscipline in the year 1995, 2003 and 2007 for which he was reprimanded and punished. Smt Neelima Tewari is the wife of Shri U.K.Pahwa, who pressurized the Petitioner in an attempt to get transfer order of her husband cancelled. It is alleged by the

Petitioner that on being not obliged, she got filed a false criminal complaint in question through Smt Priya Malik (Respondent No. 1), one of her colleagues, who is also a political activist. It is further pleaded by the Petitioner that criminal complaint case got filed only to pressurize the Petitioner to get cancelled the transfer order of Shri U.K.Pahwa and to get dropped departmental enquiry initiated against him.

5. The allegations made in the petition are denied in the counter affidavit filed by the complainant, and counter allegations are made against one D.K.Sahni, who was earlier General Manager of the Bank. It is further stated that in the counter affidavit that Shri R.K.Gupta is misusing in abusing the power as Chairman of the Bank.

6. In the rejoinder affidavit filed to the counter affidavit the facts alleged in the counter affidavit are rebutted and pleas taken in the affidavit filed with the petition are reiterated.

7. Learned counsel for the Petitioner submitted that it is abuse of process of law on the part of the Respondent No. 1 to file the criminal complaint at the behest of Neelima Tewari (wife of U.K.Pahwa) in order to pressurize him to recall transfer order of Shri U.K.Pahwa, and to drop the enquiry pending against him.

8. From the affidavits of the parties it appears that it is not disputed that Shri U.K.Pahwa is husband of Smt Neelima Tewari. It is also not disputed that he (U.K.Pahwa) was punished in the year 1995, 2003 and 2007 for certain acts of indiscipline. It is further submitted that the transfer of Shri U.K.Pahwa from Partapur to Branch Jhankat was made due to the administrative exigency so that the enquiry against him may be fairly completed.

9. In the above circumstances, this Court finds that it is evident from the record that the impugned criminal proceedings in the form of criminal complaint filed through Priya Malik are nothing, but abuse of process of law. Therefore, this petition u/s 482 of Code of Criminal Procedure, is allowed. The proceedings of criminal complaint case No. 810 of 2009 Smt. Priya Malik v. R.K.Gupta, relating to offences punishable u/s 354, 323, 504 and 506 I.P.C., pending in the court of Civil Judge (Junior Division)/ Judicial Magistrate, Haldwani, are hereby quashed.