

(2007) 01 UK CK 0003

In the Uttarakhand High Court

Case No : Criminal Appeal No. 126 of 2005

Roop Kishore Mishra

APPELLANT

Vs

State of Uttaranchal and Others

RESPONDENT

Date of Decision : 04-01-2007

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 200, 202, 482
Penal Code, 1860 (IPC) — Section 499, 500, 501, 502

Citation : (2007) NCC 931

Hon'ble Judges : B.C.Kandpal, J

Bench : Single Bench

**Advocate : Lalit Miglani, holding brief of Mr. Pankaj Miglani, for the Appellant;
B.M. Pingal, learned counsel for the Respondent No. 2, for the Respondent**

Judgement

Hon'ble B.C. Kandpal, J.—By way of this petition u/s 482 Cr.P.C. the petitioner has prayed for quashing the impugned order dated 10.11.2003 passed by Special Judicial Magistrate IInd, Haridwar as well as entire criminal proceedings in Criminal Case No. 637 of 2003, under Sections 499, 500 of I.P.C. Brief facts of the case are that the respondent No. 2 has filed a complaint before the Judicial Magistrate, Haridwar against the petitioner and four other persons under Sections 499, 500, 501, 502 of I.P.C. alleging therein that the applicant and other persons got published a news article on 29.04.2000 edition of Dainik Amar Ujala wherein it was published that in pursuance of the order dated 31.03.2000 passed in original suit No. 18 of 1999, since no transfer certificate was issued, hence the property of respondent No. 2 is being ordered to be attached. On the basis of the aforesaid complaint a case was registered as Complaint Case No. 133 of 2001 thereafter on the same date i.e. 12.07.2000, the learned Magistrate recorded the statement of the complainant and witnesses under Sections 200 and 202 of Cr.P.C. The learned Magistrate issued notice vice order 25.01.2001 to face the trial. Against the summoning order, the petitioner filed a revision before the learned Session Judge, Haridwar which was allowed and the matter was remanded back to the Magistrate concerned to pass the appropriate order afresh.

Thereafter, again the learned Magistrate, issued summoning order vide order dated 10.11.2003 against the petitioner under Sections 499, 500 of I.P.C. against which the petitioner preferred this petition before this Court. Thereafter, the accused/petitioner filed protest petition which was rejected vide order dated 01.07.2004 against above order a revision was preferred before IInd F.T.C./A.D.J. Haridwar which was dismissed vide order dated 28.01.2005.

2. Heard Sri Lalit Miglani holding brief of Sri Pankaj Miglani, learned counsel for the petitioner on the point of admission, Sri B.M. Pingal, learned counsel for the respondent No. 2 and perused the record.

3. Having considered the arguments advanced by the learned counsel for the petitioner and perusing the documents filed before me, I am of the view that there is no flagrant injustice and abuse of process of court in this case. At this stage, I am not supposed to embark upon an enquiry with regard to the reliability of the evidence which is yet to be adduced before the court during the course of the trial. Any judgment rendered by me would amount to premature judgment where the evidence is still incomplete and hazy. The petition lacks merit and is liable to be dismissed.

4. Accordingly, the petition filed u/s 482 Cr.P.C. is dismissed in-limine. Stay order dated 10.03.2005 stands vacated.