
(2009) 08 UK CK 0009
In the Uttarakhand High Court

Sanjay and Others

APPELLANT

Vs

State of Uttranchal and Others

RESPONDENT

Date of Decision : 03-08-2009

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Penal Code, 1860 (IPC) — Section 147, 323, 342, 427, 504
Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 —
Section 3

Citation : (2009) 08 UK CK 0009

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

Bench : Single Bench

Final Decision : Dismissed

Judgement

B.C. Kandpal, J.—By way of this petition, u/s 482 Cr.P.C., the petitioners have prayed for quashing the chargesheet as well as cognizance order dated 01.05.2004 passed in Criminal Case No. 228/2004 (Crime No. 113/2002) State v. Pradeep and Ors. under Sections 147, 323, 504, 506, 427, 342 of I.P.C. and 3(1)(iv)(v) S.C./S.T. Act P.S. Bhagwanpur, pending in the court of A.C.J. (J.D.), Roorkee.

2. Brief facts of the case are that respondent No. 3 had lodged the First Information Report against the applicants registered as Case Crime No. 113 of 2002 under Sections 147, 323, 504, 506, 427, 342 of I.P.C. and 3(1)(iv)(v) S.C./S.T. Act. After investigating the matter the Investigation Officer submitted the chargesheet before the court concerned and on the basis of the chargesheet, the 1st A.C.J. (J.D.), Roorkee took cognizance against the applicants vide order dated 01.05.2004.

3. Feeling aggrieved by the aforesaid impugned order the applicants have filed this petition for setting aside the impugned summoning order as well as for quashing the chargesheet submitted against the applicant before the court below.

4. Learned Counsel for the applicants has argued before the Court that the

incident took place on 18.06.2002 whereas the complaint was lodged on 18.07.2002, which clearly shows that there is a delay of one month in lodging the First Information Report, which has not been explained by the complainant and the prosecution made a false story against the applicants.

5. From the perusal of the counter affidavit filed by the complainant stating therein that an application was moved before the District Magistrate, Haridwar on 25.06.2002 and on 13.07.2002 to lodge the First Information Report and in reply to the counter affidavit, the petitioners have stated in the rejoinder affidavit that the reply of complainant is not admitted, which does not appear to be sufficient reply. Therefore, the arguments advanced by learned Counsel for the applicants is devoid of any force.

6. Learned Counsel for the applicants has further argued that the impugned summoning order dated 01.05.2004 passed by the 1st ACJ (J.D.), Rookee is not a speaking order. Hence, the summoning of the applicants is bad in the eye of law.

7. I do not find any force in this argument. The summoning order does not require a meticulous consideration of the evidence. Learned Counsel for the applicants has further argued that the prima facie case is not made out against the petitioners, hence, the summoning order is bad and the chargesheet submitted by the Investigating Agency deserves to be quashed.

8. I again do not find any force in this argument. I am not suppose to assume the role of a trial court and embark upon an enquiry as to the reliability of evidence and sustainability of accusation on a reasonable appreciation of such evidence. On consideration of the allegations made in the First Information Report, it appears that the ingredients of the offences are disclosed.

9. The next contention raised by the learned Counsel for the petitioners is that the allegations made by the opposite party No. 3 against the petitioners are result of malafidies.

10. This argument also is of no avail. The Hon"ble Apex Court in Zandu Pharmaceutical Works Ltd. v. Mohd. Sharaful Haque reported in 2005 Scc (Criminal) 283 has held that "when an information is lodged at police station and an offence is registered, then the mala fides of the informant would be of secondary importance. It is the material collected during the investigation and the evidence led in court, which decides the fate of the accused person. The allegations of mala fides against the informant are of no consequence and cannot by themselves be the basis for quashing the proceedings."

11. The inherent power u/s 482 Cr.P.C. is to be exercised by this Court only to prevent the abuse of process of any court or otherwise to secure the end of justice and this power is not to be exercised to stifle a legitimate prosecution. I refrain myself from giving a premature decision in a case wherein the entire facts are extremely incomplete and hazy, more so, when the evidence has not been

produced before the court and the issues involved whether factual or legal are of great magnitude and cannot be seen in their true perspective without sufficient material. I do not find any special feature in this case to say that it is not expedient and not in the interest of justice to permit the prosecution to continue.

12. I do not find any ground on which I come to the conclusion that in this case flagrant injustice is going to be caused to the applicants. There is no scope to exercise the inherent jurisdiction u/s 482 Cr.P.C. in the present matter.

13. Accordingly, the petition u/s 482 Cr.P.C. is dismissed.

14. Consequently, the stay order dated 08.06.2004 stands vacated.

15. However, the petitioners/applicants will have an opportunity to raise their grievance before the learned Magistrate during the trial and the learned Magistrate will decide the matter in accordance with law.