
(2022) 12 UK CK 0038

In the Uttarakhand High Court

Case No : Writ Petition (Criminal) No. 2070 Of 2022

Shahanavaz And Others

APPELLANT

Vs

State Of Uttarakhand And Others

RESPONDENT

Date of Decision : 08-12-2022

Acts Referred:

Indian Penal Code, 1860 — Section 354, 376, 376(2)(N), 377, 498A, 506
Code Of Criminal Procedure, 1973 — Section 161

Citation : (2022) 12 UK CK 0038

Hon'ble Judges : Sanjaya Kumar Mishra, J

Bench : Single Bench

Advocate : Devesh Bishnoi, J.S. Virk, Rakesh Kumar Joshi

Final Decision : Dismissed

Judgement

Sanjaya Kumar Mishra, J

1. By filing this writ petition, the petitioners have prayed for the relief:

"i. Issue a writ, order or direction in the nature of Certiorari to quash the impugned FIR bearing registration no. 1264 of 2022 registered on 03.11.2022 at police station Mangalaur, District Haridwar, under Section 498A, 506, 354, 376 (2) (N) and 376 IPC.

ii. Issue a writ, order or direction in the nature of Mandamus commanding the respondent no. 1 and 2 not to arrest the petitioners during the period of investigation in impugned FIR bearing registration no. 1264 of 2022 registered on 03.11.2022 at police station Mangalaur, District Haridwar, under Section 498A, 506, 354, 376 (2) (N) and 376 IPC."

2. It is not disputed that respondent no. 3 happens to be the wife of petitioner no. 1. She alleges that she has been tortured for dowry, her modesty has been outraged, she has been threatened by the petitioners and there is also allegation that her father-in law and brothers-in-law had committed sexual intercourse with

her, leading to file an FIR under Section 376 (2) (N) of the Indian Penal Code, 1860. Moreover, there is allegation that in the year 2021, she has been raped by Naushad Khan, Shahbaz Khan, Yunus Khan, Shahnazar and after three days, when her husband returned home, she narrated her plight to him that her father-in-law and others had committed rape upon her but instead of attending her complaint, petitioner no. 1/ husband reprimand and intimidated her and did unnatural sex with her, which is punishable under Section 377 IPC. It is also borne out from the records that petitioner no. 1 has prepared an objectionable video of the complainant / respondent no. 3 and threatened her to expose the same.

3. In that view of the matter, the initial argument advanced by the learned counsel for the petitioners that there has been no specific allegation in the FIR regarding the commission of the offences under Section 377, 354, 376 (2) (N) and 376 IPC stands nullified, on perusal of the statement of victim recorded under Section 161 of Cr.P.C. by the Investigating Officer, copy whereof is produced in the Court today.

4. In that view of the matter, we are of the opinion that learned counsel for the petitioners is unable to make out a case for quashing of FIR in view of the fact that complainant / respondent no. 3 has made serious allegations against the petitioners that requires investigation.

5. This Court is of the firm opinion that there is no merit in the writ petition. Moreover, further taking into consideration the observations made by Hon'ble Supreme Court in the case of M/s Niharika Infrastructure Pvt. Ltd. Vs. State of Maharashtra and others (2021) SCC Online SC 315 that investigating agency has a right and duty to investigate the case when prima facie case is made out, as per contents of the FIR and in view of the principles laid down by the Hon'ble Supreme Court in the case of State of Haryana Vs. Bhajan Lal (1992) Supp. (1) SCC 335 quashing of the FIR should not be resorted to in a routine manner and only in rare and exceptional cases, FIR should be quashed, we are of the firm opinion that no interference is required in the matter. Accordingly, the writ petition is dismissed being devoid of merits.