
(2011) 08 UK CK 0009

In the Uttarakhand High Court

Case No : Criminal Miscellaneous Application No. 370 of 2007

Smt. Jimiya and Another

APPELLANT

Vs

State of Uttarakhand and Another

RESPONDENT

Date of Decision : 09-08-2011

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 200, 202
Penal Code, 1860 (IPC) — Section 323, 420, 452, 504, 506

Citation : (2011) 08 UK CK 0009

Hon'ble Judges : Servesh Kumar Gupta, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Servesh Kumar Gupta, J.—By way of this criminal miscellaneous application, the order of cognizance-dated 27.8.2005 passed in Criminal Complaint No. 2512 of 2003, Smt. Husno Begum v. Jahid and Ors. is under challenge. The prayer has been made to quash the cognizance order nay the entire proceedings of the complaints, as mentioned above.

2. The dispute between the complainant Husno Begum and the applicants Smt. Jimiya and Abdul Kareem has arisen on the basis of a piece of land whereof the registered sale deed was executed way back on 6.9.1983 by Smt. Husno Begum in favour of the applicants. It is worthwhile to note that the applicants are the real brother and sister in law of complainant Husno Begum. This land bears the Khasra No. 148 admeasuring 0-47 acre located at village Harbanswala Ghisarpadi, Pargana Central Doon, District Dehradun. In pursuance to the sale deed, the applicants got their name mutated in the relevant revenue records, i.e. Khatauni, copy whereof has been annexed as annexure 2 to the affidavit filed in support of the petition.

3. After lapse of considerable time of almost two decades, a complaint was sent by complainant Husno Begum to the Chief Minister alleging that she was forced to write the sale deed in favour of the applicants. On enquiry conducted by the

City Magistrate, Dehradun, letter was sent by District Magistrate to the Chief Minister that forcibly no deed was executed by Husno Begum pertaining to the land in question and the applicants have not made any adverse possession over the land in dispute. It was also a Note in the report sent by the District Magistrate that Smt. Husno Begum executed the alleged sale deed in front of the Sub-Registrar after receiving the due consideration of the sale deed. If she feel that the sale deed has been forcibly got executed, then the course is open to her to knock the door of civil court for its cancellation.

4. Finding the above complaint to the Chief Minister ineffective, Smt. Husno Begum filed a criminal complaint on dated 12.10.2001 before the Court of Judicial Magistrate, Dehradun with the allegations that on 7.10.2001 at about 6 PM, the applicants along with one Mr. Jahid came to her residence, abused her and belaboured her with fists, kicks and slaps. Hearing the noise, the neighbours Munna and Nazir came to her rescue. The accused persons left the spot extending threats to see her in future.

5. In support of the complaint, she examined herself u/s 200 Code of Criminal Procedure and one witness Sri Indra Raj Singh Chauhan u/s 202 Code of Criminal Procedure After recording the statement as above, the learned Magistrate passed the cognizance order against the applicants Smt. Jimiya and Abdul Karim for the offences of Sections 323, 420, 452, 504 and 506 IPC. The order of cognizance was also passed against the accused Jahid for the offence of Section 323, 504, 506 and 452 IPC.

6. It is against this cognizance order the applicants Smt. Jimiya and Abdul Karrem have filed this petition.

7. Smt. Husno Begum was served in person but neither she appeared herself nor engaged any counsel to argue her case before this Court. In these circumstances, I have perused the entire evidence on record and feel that Munna and Nazir were the neighbours who have been named as a witness of the incident of dated 7.10.2001, but they have not been examined. Sri Indra Raj Singh Chauhan, another third person has been examined instead and this person is not named as a witness in the complaint. Besides, Husno Begum is an octogenarian Muslim lady and the applicants are her real brother and sister in law. The sale deed in their favour was executed almost two decades before the filing of the complaint. On the complaint of Smt. Husno Begum, enquiry has already been conducted by the City Magistrate and that complaint was found to be baseless. These circumstances render a reflection that only the vengeance in the heart of Husno Begum has resulted in filing this vague and false complaint against the applicants. This is a gross abuse of process of law and the Court feels that the order of cognizance along with the entire proceedings of the complaint, with regard to the applicants, are liable to be quashed.

8. In view of the above, the criminal miscellaneous application is allowed and the order of cognizance and the impugned complaint, so far as it relates to the

applicants, are quashed altogether.