

(2012) 06 UK CK 0045

In the Uttarakhand High Court

Case No : Criminal Miscellaneous Application No. 847 of 2007

Smt. Meena and Others

APPELLANT

Vs

State of Uttarakhand and Another

RESPONDENT

Date of Decision : 08-06-2012

Acts Referred:

Dowry Prohibition Act, 1961 — Section 3, 4
Penal Code, 1860 (IPC) — Section 323, 498A

Citation : (2012) 2 NCC 319

Hon'ble Judges : Servesh Kumar Gupta, J

Bench : Single Bench

Advocate : M.K. Goel, for the Appellant; Meena Bohara, Brief Holder (Criminal), for the State and None for the Private Respondent No. 2, for the Respondent

Final Decision : Allowed

Judgement

Hon"ble Servesh Kumar Gupta, J.—By means of this petition, the prayer has been made to quash the chargesheet no. 117/2005 giving rise to the Criminal Case No. 273/2006, State v. Shanker Khatri & Others. The said chargesheet has been submitted against all the applicants/petitioners for the offences u/s 498A, 323 IPC and Section 3/4 of the Dowry Prohibition Act. After submission of the chargesheet, the learned Magistrate has taken cognizance and summoned the applicants/petitioners, vide order dated 23.1.2006, to stand trial for the aforesaid offences. It is pertinent to mention here that informant Bhola Ram (respondent no. 2) has been served personally, but he has not come forward to contest this case nor did he file any counter affidavit. So, this Court extended hearing to learned Counsel for the applicants/petitioners and learned Brief Holder for the State. Also perused the materials available on record.

2. Relevant facts of the case are that all the applicants belong to the same family. Informant Bhola Ram married his daughter Smt. Meenu with Shanker Khatri (applicant no. 6) on 13.4.2001. Both families reside in the same city Dehradun. On 9.11.2005, informant Bhola Ram lodged an FIR against the

applicants/petitioners with the averments that he had spent rupees two lakhs in the marriage of his daughter. He gave Jewellery, clothes, sewing machine, furniture, fridge, T.V., godrej almirah, etc. to his daughter. Although, these articles were accepted by the applicants/petitioners, but they were not contended with the same. They started taunting his daughter Smt. Meenu for bringing insufficient dowry. It has been further averred by the informant that his son-in-law Shanker Khatri used to demand a motorcycle. When Smt. Meenu informed her parents about her ongoing ordeal, efforts were made to soothe and mollify the applicants/petitioners, but all went in vain. Meanwhile, Smt. Meenu gave birth to a female child. However, the atrocious behaviour of the applicants/petitioners did not dilute and it continued as usual. Ultimately, she was ousted from her matrimonial house.

3. It has been further averred in the FIR that on 8.11.2005, Shanker Khatri and his sister came at the parental house of Smt. Meenu and expressed their repentance for their tyrannical conduct. On their assurance that they would not misbehave again with Smt. Meenu, Bhola Ram sent her daughter Meenu thenceforth to her matrimonial house on 8.11.2005. But unfortunately, just on the next day i.e. on 9.11.2005, his daughter was again bitterly beaten by the applicants/petitioners. They also tried to set her ablaze. Somehow, she managed to escape from her matrimonial house and came back to her parental house in Dehradun and informed her father. No sooner did Smt. Meenu reached at her parental house, Shanker Khatri (an army personnel) reached there on a motorcycle and began to assault her. When the complainant tried to rescue his daughter, Shanker Khatri extended the same treatment to him also. On raising the alarm by the complainant, neighbours assembled there and they could be saved only on the intervention of their neighbours. Thereafter Smt. Meenu was taken to the Doon Hospital, where she was medically examined, and on account of the injuries sustained by her, she had to admit in the hospital.

4. With the above allegations, FIR was lodged by Bhola Ram on 9.11.2005 at 9.30 pm i.e. soon after the alleged incident. After the investigation, police submitted chargesheet against the applicants/petitioners, as has been stated above.

5. It has been contended on behalf of the applicants that entire family of Shanker Khatri (husband), including the married sister-in-law (Nanad) has been falsely implicated in this case. Learned Counsel for the applicants submitted that the allegation of demand of dowry (if any) has been made only against Shanker Khatri, who allegedly demanded a motorcycle. Therefore, it was not proper on the part of the complainant to implicate the entire family. Learned Counsel for the applicants also drew attention of this Court towards Section 3 and 4 of the Dowry Prohibition Act and argued that no offence, as spirited in these sections, is made out against the applicants.

6. This Court does not agree with the submissions advanced on behalf of the applicants/petitioners. Specific allegations have been made in the FIR. The victim

Smt. Meenu was also medically examined and she had to admit in the Doon Hospital on account of the injuries sustained by her. However, at the same time, the Court feels that had there been any incident of beating and assault even in the matrimonial house of the victim, then participation of all the female and male members simultaneously in the alleged incident does not prima facie appear to be natural. All the same, this may be subject of evidence in the trial court. But at this stage, the Court is not inclined to permit the trial against Smt. Meena (Nanad) and Smt. Kalawati Devi (Jethani) inasmuch as Smt. Meena is married sister-in-law of the victim and she was living separately, and no specific allegation has been made against Smt. Kalawati Devi.

7. For the reasons recorded above, this petition deserves to be partly allowed. Accordingly, it is allowed in part. Impugned chargesheet no. 117/2005, pertaining to Case Crime No. 205/2005, u/s 498A, 323 IPC and Section 3/4 of the Dowry Prohibition Act, summoning order dated 23.1.2006 as well as the proceedings of Criminal Case No. 273/2006, State v. Shanker Khatri & Others, are hereby quashed so far as the same relate to the applicants no. 1 & 2 i.e. Smt. Meena & Smt. Kalawati Devi only. However, the trial against rest of the accused persons shall proceed as per the provisions of law. Interim order dated 14.11.2007 stands vacated accordingly. Registry is directed to inform the court concerned accordingly.