

(2010) 03 UK CK 0013

In the Uttarakhand High Court

Case No : Criminal Miscellaneous Application No. 505 of 2004

Suresh Chandra Gupta and Others

APPELLANT

Vs

State of Uttarakhand and Others

RESPONDENT

Date of Decision : 08-03-2010

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 200, 202, 482
Dowry Prohibition Act, 1961 — Section 3, 4
Hindu Marriage Act, 1955 — Section 9
Penal Code, 1860 (IPC) — Section 498A

Citation : (2010) 1 NCC 670

Hon'ble Judges : Prafulla C. Pant, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Hon'ble Prafulla C. Pant, J.—By means of this petition, moved u/s 482 of the Code of Criminal Procedure, 1973 (for brevity hereinafter referred as Cr.P.C.), the petitioners have sought quashing of the proceedings of Criminal Complaint Case No. 08 of 2004; Smt. Preeti Gupta Vs. Amit Gupta and others, relating to offences punishable u/s 498-A of I.P.C., and one punishable u/s 3/4 of the Dowry Prohibition Act, 1961, police station Rishikesh, District Dehradun, pending in the court of Civil Judge (Junior Division)/Judicial Magistrate, Rishikesh.

2. Heard learned counsel for the petitioners.

3. None present for the complainant Preeti Gupta, who was personally served with the notices, issued by this Court.

4. Brief facts of the case are that respondents No. 4 Preeti Gupta got married to Amit Gupta (son of present petitioners No. 1 and 2) on 26.11.2001. It is alleged in the criminal complaint that she was harassed for non-fulfillment of demand of dowry. She got herself examined u/s 200 of Cr.P.C. before the Magistrate. Thereafter, statement of witnesses Anurag Mittal and Man Mohan Mittal were recorded u/s 202 of Cr.P.C. Where after, the Magistrate summoned the accused,

including the present petitioners, in respect of offence punishable u/s 498-A of I.P.C., and one punishable u/s 3/4 of the Dowry Prohibition Act, 1961. Aggrieved by said order it appears that the accused, including the petitioners, filed criminal revision No. 78 of 2004, before the Sessions Judge, Dehradun, which was dismissed vide order dated 14.10.2004. Hence, this petition.

5. Learned counsel for the petitioners submitted that petitioner No. 1 Suresh Chandra Gupta is father-in-law, petitioner No. 2 Saroj Rani Gupta is mother-in-law, and petitioner No.3 Akhil Gupta is brother-in-law of complainant Preeti Gupta (respondent No.4). It is pleaded that the present petitioners live separately from their son Amit Gupta (husband of the complainant). In support of said plea, copy of the ration card No. 255707 has been filed as Annexure-10 to the petition, which shows that in the family of the present petitioners, Suresh Chandra Gupta, Saroj, Archana and Akhil live in the House No. B-47, Arihant Vihar, Vishnu Garden Colony, Kankhal, District Haridwar. The list of family members does not contain name of Amit Gupta to whom respondent No. 4 Preeti Gupta got married. It is argued on behalf of the petitioner that it is abuse of process of law on the part of the complainant to implicate the present petitioners in the criminal complaint case due to the matrimonial discord between Smt. Preeti Gupta and her husband Amit Gupta. Also, it is pointed out that the criminal complaint was nothing but counter blast to the matrimonial case filed u/s 9 of the Hindu Marriage Act 1955, by Amit Gupta, husband of the complainant (respondent No. 4) in the year 2003. The above facts remained uncontroverted as the respondent No.4/ complainant has not responded to the notices issued by this Court, even after being personally served, as such, this Court has no reason to disbelieve that the criminal complaint as against the present petitioners is nothing but abuse of process of law on the part of the complainant.

6. Therefore, for the reasons as discussed above, the proceedings of Criminal Complaint Case No. 08 of 2004; Smt. Preeti Gupta Vs. Amit Gupta and others, relating to offences punishable u/s 498-A of I.P.C., and one punishable u/s 3/4 of the Dowry Prohibition Act, 1961, police station Rishikesh, District Dehradun, pending in the court of Civil Judge (Junior Division)/Judicial Magistrate, Rishikesh, District Dehradun as against the present petitioners, namely Suresh Chandra Gupta, Smt. Saroj Rani Gupta and Akhil Gupta are hereby quashed. The petition u/s 482 of Cr.P.C. stands allowed.