

**(2011) 11 UK CK 0006**

**In the Uttarakhand High Court**

**Case No :** Criminal Miscellaneous Application No. 680 of 2007

Tahir Hussain and others

APPELLANT

Vs

State of Uttarakhand and another

RESPONDENT

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**Date of Decision :** 11-11-2011

**Acts Referred:**

Criminal Procedure Code, 1973 (CrPC) — Section 156(3), 200, 202

Dowry Prohibition Act, 1961 — Section 3, 4

Penal Code, 1860 (IPC) — Section 324, 452, 498A, 504, 506

**Citation :** (2011) 11 UK CK 0006

**Hon'ble Judges :** Servesh Kumar Gupta, J

**Bench :** Single Bench

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## Judgement

Hon"ble Servesh Kumar Gupta, J.—By way of this petition, a prayer has been advanced to quash the summoning order dated 03.07.2007 passed by learned Magistrate in criminal complaint case no. 42 of 2007 titled as Soni v. Tahir Hussain and others. A prayer has also been made to quash the entire proceedings of abovementioned complaint case, pending in the court of Judicial Magistrate, Rudrapur, Udham Singh Nagar for the offence u/s 498A, 324, 452, 504, 506 IPC and 3/4 Dowry Prohibition Act, pertaining to Police Station Gadarpur, District Udham Singh Nagar. It is pertinent to mention that despite personal service upon respondent no. 2, none turns up on her behalf.

2. Having learned counsel for the parties, it appears that marriage of Soni (respondent no. 2) was solemnized with Tahir Hussain in 1998. After few years, living amicably in the matrimonial home, she could not be accommodated there. A demand of Rs. 50,000/- cash along with a motorcyle was made by accused persons and ultimately, she was ousted from her matrimonial house on dated 05.09.2006, after extending severe beating to her. Finding no other retreat, she came to her parents' house where also on 10.09.2006 all the petitioners came there and she was again beaten brutally. Hearing the noise, the witnesses Farchand and Hamid came to rescue her. Soni got herself medically examined and tried to lodge her First Information Report at Police Station Gadarpur but

same could not be lodged so she filed complaint on 16.01.2007. The Magistrate recorded her statement u/s 200 Cr.P.C. and her witnesses u/s 202 Cr.P.C. then passed the impugned order on 03.07.2007.

3. Learned counsel for the petitioners has drawn attention of this Court towards another First Information Report no. 119 of 2007 lodged by Soni against her husband and her family members at Police Station Swar, District Rampur whereupon criminal complaint case no. 466 of 2007 was registered. This First Information Report was also registered, after procuring the order u/s 156(3) from the Magistrate concerned and theme of this report was similar. In the complaint, Soni averred that on 08.02.2007 at about 08.00 a.m. all the petitioners along with one or two other persons came to her parents' house and gave severe beating to her nay demanded dowry. The chargesheet was submitted in the matter and petitioners were forced to surrender before the court concerned from where they were set at large on bail. It has been argued on behalf of the petitioners that intention of Soni is just to harass the petitioners, who are close family members and the fact as narrated by Soni that her husband Tahir Hussain along with his father, mother and sister came to her parents' house and severely beat her is not worthy of credence particularly, in the light of another First Information Report registered in Police Station Swar, District Rampur with the same allegations.

4. This Court, in the above circumstances, do agree with the contention of the learned counsel for the petitioners and finds that Soni's intention is just to make harassment of the petitioners by invoking law and order machinery in motion by making complaints on the similar facts, so this petition deserves to be allowed. The petition is accordingly allowed. Impugned order dated 03.07.2007 and proceedings in complaint case no. 42 of 2007 are hereby set aside.