
(2010) 06 UK CK 0151
In the Uttarakhand High Court

Tapashwar Parshad Juyal and Others	APPELLANT
Vs	
State of Uttaranchal and Another	RESPONDENT

Date of Decision : 28-06-2010

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Dowry Prohibition Act, 1961 — Section 3, 4
Penal Code, 1860 (IPC) — Section 323, 392, 427, 452, 498A

Citation : (2010) 06 UK CK 0151

Hon'ble Judges : B.C.Kandpal, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

B.C. Kandpal, J.—By means of this petition, moved u/s 482 of Cr.P.C, the petitioner has sought quashing of the proceedings of Case No. 2783 of 2004, Lila Devi v. Tapeshwar Parshad and Ors., relating to offence punishable under Sections 323, 427, 452, 392, 504 and 506 of I.P.C. pending in the court of Chief Judicial Magistrate, District Dehradun.

2. Brief facts of the case are that the son of respondent No. 2 ? Rajesh Dabral was married with the daughter of applicant No. 1 ? Smt. Parnali on 04.05.2003 and after some time of the marriage, respondent No. 2 and his son and other family members subjected cruelty upon her by demanding more dowry. On 24.01.2004 a First Information Report was lodged against the respondent No. 2 and her son Rahesh Dabral, Kishori Lal (father-in-law) and Padmani (daughter of respondent No. 2). On the basis of the First Information Report Case Crime No. 12 of 2004 was registered against the respondent No. 2 and other family members. After completing the investigation of the case, the police submitted the chargesheet against the above persons and in Crime Case No. 462 of 2004, State v. Lila Devi and Ors., they were summoned as by the learned Judicial Magistrate, Haridwar, punishable u/s 498A of I.P.C. and 3/4 Dowry Prohibition Act. Thereafter, on 16.03.2004, respondent No. 2 filed a Criminal Complaint No.

2783 of 2004 against all the applicants, under Sections 323, 427, 452, 392, 504 and 506 of I.P.C. and learned Judicial Magistrate, Dehradun took cognizance against the applicants on 24.07.2004.

3. Feeling aggrieved by the aforesaid order, the applicants have preferred this petition for quashing the proceedings under the aforesaid case.

4. Heard Sri Sri Rajkumar, Advocate, holding brief of Sri K.S. Verma, Advocate for the petitioners, Sri S.S. Adhikari, learned A.G.A. for the State/respondent No. 1 and perused the record.

5. Learned Counsel for the applicants has submitted before the Court that the entire criminal proceeding against the petitioners is nothing, but a counter blast of the case filed by the applicants against the respondent No. 2 and her family members. He has also submitted that the petitioners were falsely implicated in the case, only to take revenge. He has further submitted that the applicant No. 1 is aged about 70 years and the applicant No. 2 is a lady and she has no concern with the case. Therefore, the criminal proceedings initiated against the applicants appears to be the abuse of process of Court, which is liable to be set aside.

6. After having considered the arguments advanced by the learned Counsel for the applicants and perusing the documents filed before me, I am of the view that there is no flagrant injustice and abuse of process of court in this case. The police submitted the chargesheet against the petitioners after completing the investigation. The points raised by the learned Counsel for the applicants are the disputed question of facts and it can be judged by the trial court where the evidence are yet to be collected. This Court while exercising the jurisdiction u/s 482 Cr.P.C. is not supposed to act as a trial judge. The averments made in the petition are the disputed question of fact, which can be assessed and judged by the trial court. I am not supposed to embark upon an enquiry with regard to the credibility of the evidence at this stage. Any judgment rendered by me would amount to premature judgment where the evidence is still incomplete and hazy. The applicants shall have an opportunity to place the evidence in their defence before the trial court where the matter shall be finally adjudicated after considering the entire evidence. I do not find any merit in this case at this stage.

7. Accordingly, the petition filed u/s 482 Cr.P.C. is dismissed.

8. Consequently, the stay order dated 16.06.2005 stands vacated.