
(2010) 07 UK CK 0151
In the Uttarakhand High Court

Vijay Narayan Mahendra and Another	APPELLANT
Vs	
State of Uttaranchal and Others	RESPONDENT

Date of Decision : 21-07-2010

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 200, 202, 482
Penal Code, 1860 (IPC) — Section 120B, 211, 500

Citation : (2010) 07 UK CK 0151

Hon'ble Judges : Dharam Veer, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Dharam Veer, J.—This criminal application, preferred u/s 482 of the Code of Criminal Procedure, 1973 (hereinafter to be referred as Cr.P.C.), is directed for quashing the summoning order dated 20.12.2005 and also to quash the proceedings in Complaint Case No. 1896 or 2005 u/s 120-B/500 IPC, pending before CJM, Dehradun.

2. Heard learned Counsel for the parties and perused the material on record.

3. In brief, the facts of the case are that respondent No. 2-V.K. Chaudhary lodged a complaint before the trial court stating therein that on 16.8.2003, the petitioner No. 1-Vijay Narayan Mahendra lodged a false report at PS Patel Nagar, Dehradun against the complainant and his wife in order to defame them. That on 9.8.2003, the petitioners also gave a false application before SSP Dehradun on the basis of which the case was registered as Case Crime No. 33/2003, in which the police came to arrest the complainant and his wife and at that time, some guests were also present there inside the house. The complainant was forcefully asked by the police due to which several persons of vicinity arrived there as a result of which defamation was caused to him and his wife. Thereafter, in this case after completion of the investigation, final report was submitted by the police. That in the past also, petitioner No. 2 lodged a false report against the complainant for which a case was also lodged u/s 500/211 IPC by the

complainant, and the petitioners in order to defame the complainant, gave another false application. On 17.8.2003, the petitioners got lodged a false report in the daily newspaper "Dainik Jagran" due to which the image of the complainant was tarnished which resulted in defamation. That the complainant through his Advocate asked the petitioners on 13.8.2004 to apologize in writing and to give explanation in the said newspaper about the fault committed by them, but all was in vain. Therefore, this complaint was lodged in the court. The complainant got himself examined u/s 200 Cr.P.C. while he got examined G.S. Kandpal and A.K. Arora u/s 202 Cr.P.C. Vide order dated 20.12.2005, learned CJM, Dehradun proceeded to summon the petitioners u/s 120-B/500 IPC. Hence this petition.

4. Learned Counsel for the petitioners argued that no offence is made out against them and the petitioners have been wrongly summoned by the court below. I do not find any force in this argument for the reason that on a perusal of the complaint lodged by the respondent No. 2, the statements of the complainant recorded u/s 200 Cr.P.C. and that of the witnesses, namely, G.C. Kandpal and A.K. Arora recorded u/s 202 Cr.P.C., I find that the offences punishable u/s 120-B/500 IPC are prima facie made out against the petitioners on the basis of the above-said discussion and the trial court has accordingly rightly summoned the petitioners to face trial.

5. Even otherwise, the trial court will decide the case after recording the evidence of the complainant as well as of the accused and also on the basis of the appreciation of the evidence as per law. It is well settled that while exercising jurisdiction u/s 482 of the Cr.P.C., this Court would not ordinarily embark upon the enquiry as to whether the evidence in question is reliable or not or whether on a reasonable appreciation of it accusation would not be sustained. That is the function of the trial court. If the allegations made in the FIR as well as the statements of complainant recorded u/s 200 and that of the witnesses recorded u/s 202 Cr.P.C. are taken at their face value and accepted in their entirety, I am of the view that the petitioners have rightly been summoned by the trial court. The trial court will decide the case after recording the evidence adduced before it. I am of the view that in the present case there is neither any miscarriage of justice nor any abuse of process of court.

6. For the reasons recorded above, there is no force in the application. The application Code 482 is devoid of merits and is hereby dismissed. Interim order dated 13.7.2006 is vacated.