
(2010) 06 UK CK 0129
In the Uttarakhand High Court

Zaheer Hasan and Others

APPELLANT

Vs

State of Uttaranchal and Rukshana

RESPONDENT

Date of Decision : 16-06-2010

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Dowry Prohibition Act, 1961 — Section 3, 4
Penal Code, 1860 (IPC) — Section 147, 148, 324, 498A, 504

Citation : (2010) 06 UK CK 0129

Hon'ble Judges : Prafulla C. Pant, J

Bench : Single Bench

Judgement

Prafulla C. Pant, J.—By means of this petition, moved u/s 482 of the Code of Criminal Procedure, 1973 (for short Cr.P.C.), the petitioners have sought quashing of the proceedings of Criminal Case No. 558 of 2005 State v. Zaheer Hasan and Ors. relating to offences punishable u/s 147, 148, 324, 504, 506, 498A of I.P.C., and one punishable u/s 3/4 of the Dowry Prohibition Act, 1961, police station Bhagwanpur, District Haridwar, pending in the court of First Addl. Civil Judge (Junior Division)/Judicial Magistrate, Roorkee.

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

3. Brief facts of the case are that petitioner No. 1 Zaheer Hasan got married to respondent No. 2 Rukshana (complainant) in the year 1994. It is alleged by the complainant that her husband and other in-laws made demand of dowry where after she started living in her parental house. It is further alleged by the complainant that on 26.08.2004, at about 11:00 A.M., her husband Zaheer Hasan, brother-in-law Najim, sister-in-law Zaheera, brother-in-law Mahboob, uncle-in-law Noor Hasan, mother-in-law Hamida, father-in-law Ali Hasan, brother-in-law Azad and sister-in-law Gulshana entered in the parental house of the complainant. It is stated in the first information report that the complainant's husband assaulted her with a knife. Her brothers-in-law, father-in-law, mother-in-law assaulted her with "Lathi", and her sisters-in-law tried to strangle her

with a rope. After investigation, police has filed charge sheet against all the accused (present petitioners).

4. Learned Counsel for the petitioners submitted that the complainant has initiated false criminal proceedings due to the matrimonial discord between her and her husband. It is further pleaded that the petitioners No. 2 to 9 live separately from the petitioner No. 1 (husband).

5. Perusal of the injury report, copy of which is Annexure -2 to the petition, shows that there is an incised wound on the person of the complainant, and there is also abrasion around her neck in an area of 15 cm X 2 cm, apart from the other injuries mentioned in the report. In the circumstances, this Court is not inclined to interfere with the trial of the petitioners, except petitioner No. 4 Mahboob (brother-in-law/NANDOI) and petitioner No. 5 Noor Hasan (uncle-in-law) of the complainant, regarding whom no specific role is said to have been assigned in the statement of the complainant. To the extent of these two accused it appears to be a case of abuse of process of law.

6. Accordingly, the petition u/s 482 of Cr.P.C. is disposed of, with following directions:

i) So far the trial relates to petitioner No. 4 Mahboob (NANDOI) and petitioner No. 5 Noor Hasan (uncle-in-law) of the complainant, the criminal proceedings in the Criminal Case No. 558 of 2005, pending before First Addl. Civil Judge (Junior Division)/Judicial Magistrate, Roorkee, are hereby quashed.

ii) However, the petition u/s 482 of Cr.P.C. is dismissed so far it relates to petitioners Zaheer Hasan, Najim, Zaheera, Hamida, Ali Hasan, Azad and Gulshana. The trial court may proceed with the trial of these accused, relating to offences punishable u/s 147, 148, 324, 504, 506, 498A of I.P.C., and one punishable u/s 3/4 of the Dowry Prohibition Act, 1961.

iii) Petitioner No. 1 Zaheer Hasan is said to be on bail. If the petitioner No. 2 Najim, petitioner No. 3 Zaheera, petitioner No. 6 Hamida, petitioner No. 7 Ali Hasan, petitioner No. 8 Azad and petitioner No. 9 Gulshana surrender before the court concerned, and move application for bail, their bail application shall be heard and disposed of without unreasonable delay.