

IN THE HIGH COURT OF UTTARAKHAND AT
NAINITAL

Criminal Miscellaneous Application No. 58 of 2015
(Under Section 482 CrPC)

Harprasad & Others ... Applicants

Versus

Rajpal ... Respondent

Mr. Jasmeet Sahota, Advocate, i/b Mr. Harshpal
Sekhon, Advocate for the applicants.
None for the respondent.

29.12.2023

Hon'ble Manoj Kumar Tiwari, A.C.J.

Aggrieved by an order dated 27.8.2014, by which applicants were summoned for commission of offences punishable under Sections 452, 323, 504 and 506 IPC, they have preferred the instant Criminal Miscellaneous Application, under Section 482 CrPC, to challenge the legality and correctness of the said order and to quash the entire proceedings of Criminal Complaint Case No. 3872 of 2014, pending in the Court of Judicial Magistrate (Rudrapur), Udham Singh Nagar.

2. Briefly stated, the facts giving rise to instant petition were that a complaint was filed by respondent on 28.7.2014 to the effect that since some time, after his departure for the workplace, his wife used to remain absent from the house for the entire day and when he enquired from his wife on 28.6.2014, she

started quarrelling and, therefore, on 29.6.2014, he complained about it to his in-laws (accused applicants), who came to complainant's house at about 9 P.M., the same day, and abused and assaulted him. On complainant's raising an alarm, his neighbours and brother rescued him. Upon this complaint, Magistrate examined the complainant and his witnesses under Section 200 and 202 CrPC respectively and thereafter, vide order dated 27.8.2014, summoned the accused applicants to face trial for the offences aforesaid. Thus feeling aggrieved, accused applicants filed this petition, invoking the inherent power and jurisdiction of this Court under Section 482 CrPC, submitting that the order summoning them is liable to be quashed as it amounts to abuse of the process of law.

3. Heard learned Counsel for the applicants and perused the material on record.

4. Learned Counsel for the accused applicants submitted that the complainant respondent used to beat his wife and a complaint in this regard was made to the police and ultimately an FIR was registered against the respondent. He further submits that applicants have been falsely implicated as a counterblast to the proceedings initiated against the complainant respondent and no such incident, as alleged in the complaint, ever took place.

5. In the present case, specific allegations have been made against the accused applicants. Alleged incident has been narrated in detail with specific date and time. The background scenario and the motive behind the alleged incident have also been stated in the complaint. Process has been issued against the accused applicants after taking cognizance on the complaint and examining the complainant and the witnesses.

6. The Court is of the view that the allegations made in the complaint and the statements of the complainant and his witnesses are enough to proceed against them prima facie for commission of alleged offences. At this stage, when the summons have been issued by the Magistrate, the court is not required to examine the evidence meticulously to see as to whether the case would result in conviction or not. Law is well settled that when a prosecution, at the initial stage is sought to be quashed, the principle to be applied by the court is whether uncontroverted allegations, as made, prima facie establish the offence.

7. It is settled law that power under Section 482 CrPC requires great caution in its exercise. A Constitution Bench of the Hon'ble Apex Court has elaborately discussed such scope in the case of *Inder Mohan Goswami & Another v. State of Uttaranchal & others*, **(2008) 1 SCC (Cri) 259**, and has held that inherent power under Section 482 CrPC can be

exercised to prevent abuse of the process of court and to otherwise secure the ends of justice. However, the inherent power should not be exercised to stifle a legitimate prosecution.

8. For the reasons aforesaid, I do not find any force in this petition. Consequently, the present petition is dismissed. Interim order, if any, stands vacated.

9. It is made clear that any observation made by this Court is only for the purpose of deciding this C482 petition and the same shall not prejudice the trial against the accused applicants.

(Manoj Kumar Tiwari, A.C.J.)

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