

IN THE HIGH COURT OF UTTARAKHAND AT
NAINITAL

Criminal Miscellaneous Application No. 1773 of 2016
(Under Section 482 CrPC)

Anjuman

... Applicant

Versus

State of Uttarakhand & Others ... Respondents

None for the applicant.

Mr. Vikas Uniyal, Brief Holder, for the State.

31.12.2024

Hon'ble Manoj Kumar Tiwari, J.

This Criminal Miscellaneous Application, under Section 482 CrPC, has been filed seeking to set aside the judgment and order dated 30.11.2016, passed by 4th Additional Sessions Judge, Haridwar, by which learned Judge has rejected the Criminal Revision No. 54/2014, which was preferred by the applicant against the order dated 1.10.2014, passed by Judicial Magistrate, 1st Class, Haridwar in Criminal Complaint Case No. 1175/2014, whereby complaint filed by the applicant was dismissed.

2. Brief facts leading to this case are that applicant filed a complaint under Section 156(3) CrPC alleging that her four nephews (respondent no. 2 to 5 herein) fraudulently got executed the sale deed and thus grabbed the property of one of her real sisters. On 1.12.2013, when the applicant inquired about it from respondent no. 2 to 5, then they assaulted and abused the applicant and her

sister and ousted them from the said property. Applicant's complaint was registered as Complaint Case No. 1175 of 2014.

3. To prove the case, applicant complainant got herself examined along with her two witnesses under Section 200 CrPC. After considering the statements and the material placed on record, trial court rejected the complaint under Section 203 of CrPC vide its order dated 1.10.2014. Revision preferred against the said order also came to be dismissed on 30.11.2016.

4. It is contended by the applicant complainant that the impugned order passed by the learned Magistrate is contrary to the facts and material evidence on record and hence the same is liable to be set aside. Per contra, learned State Counsel contends that the order passed by the trial Court is based on materials placed on record and on consideration of the statements of complainant and her witnesses.

5. I have perused the materials on record. While rejecting the complaint, trial court observed that statement made by the applicant complainant and witnesses examined under Section 200 CrPC do not corroborate the allegations made in the complaint and the dispute involved is purely civil in nature.

6. This Court finds no illegality or perversity in the order of the trial court. Law is

well settled that a complaint case can be rejected if the allegations made do not disclose any criminal offence and the dispute is civil in nature.

7. In the present case, learned trial court has considered all aspects, provided sufficient reasonable opportunity to complainant and has satisfied itself with regard to prima facie case not being made out and hence rejected the complaint. Applicant complainant tried to convert a purely civil dispute into a criminal case, which is not permissible under the law. In the case of A.M. Mohan v. State, 2024 SCC OnLine SC 339, Hon'ble Apex Court has held that criminal proceeding could not be used as a tool to settle a civil dispute. This is blatant misuse of criminal law machinery and utter abuse of process of law.

8. Even otherwise also, a bare reading of the complaint averments reveals that nothing is specifically stated with regard to the assault made or the abusive words uttered by the accused respondents.

9. For the reasons aforesaid, I do not find any force in criminal miscellaneous application. Consequently, it is dismissed.

(Manoj Kumar Tiwari, J.)