



2024:UHC:10014

HIGH COURT OF UTTARAKHAND AT NAINITAL

Criminal Misc. Application U/s 482 No. 291 of 2024

30th December, 2024

Kajal Rana and another

.....Applicants

Versus

State of Uttarakhand and another

.....Respondents

Presence:-

Mr. Lalit Sharma, Advocate for the applicants.

Mr. B.C. Joshi, A.G.A. with Mr. Vipul Painuly, B.H. for the State.

Hon'ble Pankaj Purohit, J.

Present C482 application has been preferred by the applicants assailing the cognizance order dated 07.06.2022, passed by learned Judicial Magistrate, Sitarganj, Udham Singh Nagar in Criminal Case No.324 of 2022 (FIR No.0357 of 2021), State Vs. Krishna Kumar Potar and others, punishable under Section 420 of IPC r/w Sections 3, 4, 5 and 6 of the Immoral Traffic (Prevention) Act, 1956 (hereinafter referred to as “Act of 1956”) along with a further prayer to quash the entire proceedings of the aforesaid case, *qua*, the applicants.

2. Facts in a nutshell are that an FIR was lodged being FIR No.0357 of 2021 at Police Station Sitarganj, Udham Singh Nagar for the offence punishable under Sections 3, 4, 5 and 6 of the Act of 1956.

3. In the FIR the applicants were also named as an accused; the matter was investigated and a charge sheet was submitted against the accused persons along with present applicants as well for the aforesaid offences. Accordingly the court concerned on the said charge sheet took cognizance and summoned the accused applicants to face trial. Hence an application under Section 482 of the CrPC has been filed before this Court.

4. It is case of the applicants that at the time of alleged incident they were newly engaged and were only having meals in the restaurant; the Police had falsely implicated the applicants in the case; there is no material on record to suggest that the applicants were paid



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any money either by them or by any third party and in absence of any material that any physical relations were developed between the parties for any commercial purpose, the provisions of the Act are not attracted against the applicants. Learned counsel for the applicants further submits that later on both the applicants have entered into nuptial bond on 15.12.2023.

5. In order to implicate the person into the crime, it is a primary requirement to prove that accused was a sex worker and was involved as co-conspirator in the crime.

6. The order passed by the Court is a cryptic one without any applicability of mind and the same is liable to be set aside.

7. On the other hand, learned State counsel argued that at the time of incident the applicants were not married.

8. On the date of incident, the accused were found in objectionable condition and with objectionable items, which fact can be gathered from the recovery memo. Even the Police witnesses have fully supported the contents of recovery memo in their statement recorded under Section 161 CrPC against the applicants.

9. I have heard learned counsel for the parties and perused the documents available on record.

10. It is not in dispute that on the date of alleged incident the applicants had been engaged and they had gone at the alleged place just to have their meals; there is no material available on record to suggest that they were actually involved in connection with the alleged crime; the applicants have been made a scapegoat; it is case of the prosecution that in the room of applicants a third person was also present; however there is no documentary or oral evidence on record to show their involvement with the said person by any means. This is also an admitted fact that both the applicants solemnized marriage on 15.12.2023 (Annexure 1 to the C482 application affidavit).



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11. Moreover the applicant no.1 has been selected as Constable in Delhi Police and her training commenced from 01.07.2024 at Delhi Police Academy, but due to this case her entire career is at stake.

12. Thus it cannot be said that the applicants were involved in management of premises in any way assisting the accused persons in managing the activities of the premises.

13. In view of the forgoing reasons, I am of the considered view that no offence under the Act of 1956 or under any penal section is made out against the applicants.

14. Accordingly the present C482 application is allowed and entire proceedings of in Criminal Case No.324 of 2022 (FIR No.0357 of 2021), State Vs. Krishna Kumar Potar and others, pending before the court of Judicial Magistrate, Sitarganj, Udham Singh Nagar are quashed, *qua*, the applicants only.

(Pankaj Purohit, J.)

30.12.2024

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