



2024:UHC:7973

HIGH COURT OF UTTARAKHAND AT NAINITAL

Criminal Misc. Application U/s 482 No. 2227 of 2022

24 October, 2024

Nidhi Pandey and others

--Petitioners

Versus

State of Uttarakhand Through SSP Dehradun and another

--Respondents

Presence:-

Mr. Ghanshyam Joshi, Advocate and Mr. Suhail Ahmed Siddiqui, Advocate through V.C. for the petitioners.

Mr. G.S. Sandhu, learned Additional Advocate General along with Mrs. Mamta Joshi, learned Brief Holder for the State.

Mr. Rajendra Arya, proxy counsel for Mr. Neeraj Garg, Advocate for respondent no.2.

Hon'ble Vivek Bharti Sharma, J.

This C482 petition has been filed for quashing the entire proceedings of Criminal Case No.3212 of 2022, '*State vs. Nidhi Pandey and others*' under Section 420, 468, 471, 120B, 504, 506 I.P.C. pending in the court of C.J.M. Dehradun, P.S. Dalanwala, District Dehradun.

2. Vide order dated 14.12.2022, Co-ordinate Bench of this Court had stayed the proceedings of this case. The Court has interacted with the parties, who are present in



person before this Court.

3. Petitioner no.1 and learned counsel appearing on behalf of the petitioners would submit that the marriage was solemnized on 01.12.2020 at Eldeco Shaurya Club Lucknow with religious and social customs and rites; that, petitioner no.1 and respondent no.2 met through Jeewan Sathi.com and it was respondent no.2 who had contacted petitioner no.1 and wished to meet her; that, later on, respondent no.2 came to meet petitioner no.1 at Lucknow; that, after meeting petitioner no.1, respondent no.2 started to impress petitioner no.1 and got success though petitioner no.1 was not interested considering age gap between them; that, respondent no.2 also enquired about petitioner no.1 and other family members; that, after satisfying on every aspect, respondent no.2 proposed petitioner no.1 for marriage; that, looking at enthusiasm of respondent no.2 towards petitioner no.1, petitioner no.1 gave her consent.

4. After marriage, petitioner no.1 went to Mathura on 02.12.2020, the native place of respondent no.2; that, petitioner no.1 was shocked to see conduct of respondent no.2 and his family from the very first day of marriage because for respondent no.2 and his family petitioner no.1



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was just a “Kamdhenu”; that, respondent no.2 and his family members started to place impractical demands before petitioner no.1; that, they started pressurizing petitioner no.1 to transfer the car in the name of respondent no.2, which was given to petitioner no.1 by her father; that, respondent no.2 and his family members also demanded cash from petitioner no.1 so that they can buy a petrol pump and a plot of land; that, respondent no.2 and his family members also pressurized petitioner no.1 to open a joint account with respondent no.2; that, respondent no.2 used to misbehave with petitioner no.1; that, respondent no.2 hacked mobile phone and social media account of petitioner no.1 and started defaming petitioner no.1 by posting obscene/dirty posts on social media; that, respondent no.2 and his family members grabbed all jewelry of petitioner no.1 and the above mentioned circumstances compelled petitioner no.1 to lodge FIR No.0023 of 2021 dated 26.03.2021 under Sections 313, 323, 406, 498A IPC, 3/4 of Dowry Prohibition Act and Section 67 of I.T. Act against respondent no.2, his parents and sister (*Annexure No.1 to the petition*).

5. Counsel for the petitioner would submit that present FIR No.0153 of 2021 dated 09.07.2021 lodged by



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respondent no.2 against the petitioners (*Annexure No.2 to the petition*) is nothing but a counterblast to FIR No.0023 of 2021 dated 26.03.2021 under Sections 313, 323, 406, 498A IPC, 3/4 of Dowry Prohibition Act and Section 67 of I.T. Act lodged by petitioner no.1 against respondent no.2, his parents and sister.

6. Counsel for the petitioner would further submit that respondent no.2 had started behaving like a psychopath after contacting petitioner no.1 through *Jeevansathi.com* and seeing behavior of respondent no.2, petitioner no.1 did not want to marry respondent no.2 and rather gave a complaint against respondent no.2 for threat of suicide being extended by him in *Mahila Samman Prakoshtha*, Lucknow on 25.09.2020 (*Annexure No.6 to the petition*) before their marriage; that, right from the date of marriage, the attitude of respondent no.2 towards petitioner no.1 was very abnormal and cruel; that, marriage profile of petitioner no.1 on *Jeewansathi.com* was not created by petitioner no.1 but it was created in cybercafé from outside; that, the moment petitioner no.1 came to know about the fact that her date of birth is incorrectly written in her profile, she forthwith communicated that to respondent no.2.



7. Counsel for the petitioner would further submit that there was no role of petitioner no.1 in creating this marriage profile by writing her wrong date of birth; that, petitioner no.1 is an educated lady, who was working as a Manager in Indian Overseas Bank, Lucknow at the relevant point of time; that, even respondent no. 2 was an educated, qualified and informed person, who was working as Surveyor in Survey of India at Dehradun and it was not at all difficult for him to verify the date of birth of petitioner no.2 and it was not difficult for either of the parties to know the background of each other; that, the FIR was filed with malafide intention just to harass and blackmail the petitioners and discourage petitioner no.1 from continuing with the proceedings for cruelty and demand of dowry and for the other incidental offences, including the offence punishable under Section 67 of I.T. Act against respondent no.2 and his family members; that, the learned Trial Court without applying its judicial mind allowed to continue the impugned criminal proceedings; that, the whole story of the prosecution is concocted, which looks like a fairy tale; that, continuing the proceedings would encourage unnecessary and futile litigation; that, the impugned criminal proceeding is a gross



miscarriage of justice and an abuse of process of law; that, respondent no.2 left no stone unturned to harass the petitioners and he is making frivolous, incorrect, baseless complaints against sister of petitioner no.1 in her office repeatedly, that, in the interest of justice, the entire proceedings of the present criminal case may be quashed.

8. Mr. G.S. Sandhu, learned Additional Advocate General and Mrs. Mamta Joshi, learned Brief Holder for the State would submit that there is no connecting evidence whatsoever regarding who had created the alleged marriage profile of petitioner no.1 on *Jeevansathi.com* and there is no connecting evidence like I.P. Address and, therefore, the same is not stated in the counter affidavit.

9. Respondent no.2 and counsel appearing on his behalf are unable to show if there is any electronic evidence linking creation of marriage profile of petitioner no.1 on *Jeevansathi.com* to petitioner no.1.

10. After hearing learned counsel for the parties and perusal of the records available in the file, it is apparently clear that the present FIR is a counterblast to the complaint of petitioner no.1 and lodged with malafide intention to harass petitioner no.1 so that she cannot pursue her case against



respondent no.2 and his family members i.e. the proceedings for cruelty and demand of dowry and for the other incidental offences. It is also clear that the allegations leveled in the FIR are not supported by any linked evidence and the consequent impugned criminal proceedings against the petitioners, in the absence of any cogent evidence, would be a futile exercise and unnecessary harassment to the petitioners, which is an abuse of the process of law.

11. The allegations made in the FIR are patently absurd and inherently improbable so that no prudent person can ever reach a conclusion that there is sufficient ground for proceeding against the petitioners as these are manifestly attempted with malafide and maliciously instituted with a motive of blackmailing petitioner no.1 to compel her to withdraw her case against respondent no.2. In the FIR, the only allegation against petitioner no.1 is that the date of birth was wrongly mentioned in her marriage profile created on *Jeevansathi.com*; that, there is no specific allegation that he would not have married petitioner no.1 had he knew that the complainant was ten years older to him. A woman being older to the man is not a ground that they cannot enter into a matrimonial alliance.



12. In the case of **State of Haryana and others vs. Bhajan Lal and others, 1992 Supreme Court Cases (Cri) 426**, the Apex Court has reiterated the principle that the High Court can exercise its inherent power to quash a criminal proceeding, when the allegations made in the FIR/ complaint do not disclose the commission of any offence and make out a case against the accused. Hon'ble Apex Court has categorized cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any Court or otherwise to secure the ends of justice :-

- i) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.
- ii) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Cr.P.C. (for short "Code") except under an order of a Magistrate within the purview of Section 155(2) of the Code.
- iii) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.
- iv) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer



without an order of a Magistrate as contemplated under Section 155(2) of the Code.

- v) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.
- vi) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.
- vii) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private or personal grudge.

13. Having considered the submissions and after going through the record available on file, particularly, in view of guidelines issued by the Hon'ble Supreme Court in the judgment cited above at point nos. (v) and (vii), this Court has come to the conclusion that it is a fit case where it can exercise its inherent jurisdiction of quashing a criminal proceeding under Section 482 Cr.P.C. /Section 528 B.N.S.S.

14. In view of the above, the present C482 petition is liable to be allowed and the same is, accordingly, allowed. Consequently, entire proceedings of Criminal Case No.3212



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(Vivek Bharti Sharma, J.)
24.10.2024

SS

SUKHBANT
SINGH

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