

HIGH COURT OF UTTARAKHAND AT NAINITAL

Criminal Misc. Application U/s 482 Cr.P.C. No.73 of 2015

Rajnish and others

...Applicants

Versus

State of Uttarakhand and Another

...Respondents

Present:-

Mr. Mohd. Safdar, Advocate for the applicants.

Mr. Vipul Painuly, AGA for the State.

Mr. M.K. Ray, Amicus Curiae for respondent no.2.

Hon'ble Siddhartha Sah, J.(Oral)

By means of the present Criminal Miscellaneous Application under Section 482 of Cr.P.C., the applicants have sought quashing of the charge-sheet dated 18.02.2014, summoning order dated 09.04.2014 and the entire proceedings of Criminal Case No.1620/2014 (New No.1751/2014), State vs. Rajnish and others, under Sections 498A, 323, 504, 506 IPC and 3/4 of the Dowry Prohibition Act, P.S. Kotwali, Gangnagar Roorkee, District Haridwar, pending in the court of the Additional Civil Judge (S.D.)/Judicial Magistrate, Roorkee, District Haridwar.

2. Facts in brief are that the FIR was lodged by respondent no.2 with the allegations that the respondent no.2 was married with applicant no.1 on 24.11.2012 and after the marriage, her husband and other family members used to torture and harass the complainant/respondent no.2 for want of dowry and ultimately the accused persons ousted the complainant from the matrimonial house on 09.01.2013.

3. It is the case of the applicants that during the course of investigation, the matter was settled between the parties and the respondent no.2 has received Rs.3,50,000/- from the applicants and on the basis of mutual consent, a divorce petition under Section 13B of the Hindu Marriage Act was filed on 21.02.2014. It is the case of the applicants that even after the aforesaid development and full knowledge of compromise, the Investigating Officer submitted the charge-sheet against the applicants. After receiving the charge-sheet, the trial court has summoned the applicants and directed to face trial in the matter.

4. It has been pleaded on behalf of the applicants that the matrimonial dispute has been settled amicably and respondent no.2 has received permanent alimony and further petition under Section 13B of Hindu Marriage Act has already been filed by the parties, therefore, continuation of the instant criminal proceeding against the applicants is nothing but an abuse of process of law.

5. Learned counsel for the applicants would submit that though the petition under Section 13B of the Hindu Marriage Act could not fructify into a consent decree, however, the matter was decided on its own merit and vide judgment and order dated 12.05.2016, the Additional Judge, Family Court, Roorkee District Haridwar allowed the divorce petition instituted by the wife/respondent no.2 herein and the marriage between the applicant no.1 and respondent

no.2 herein solemnized on 24.11.2012 was dissolved by decree of divorce. He further submits that in view of the said divorce decree, respondent no.2 is not interested to pursue the matter any further and letting the matter go into trial would be a futile exercise.

6. In fact, in the pre-lunch session, earlier counsel for respondent no.2-Mr. Bhuvnesh Joshi expressed his inability to continue with the matter and submitted that he has no instructions to appear on behalf of respondent no.2. In such an eventuality, the Court requested Mr. M.K. Ray, Advocate to assist the Court as Amicus Curiae to which he has very kindly consented and he is now present before the Court and appearing on behalf of respondent no.2.

7. Learned Amicus Curiae Mr. M.K. Ray would submit that it would be a futile exercise. The respondent no.2 has given an affidavit to the S.S.P., Roorkee, District Haridwar that she does not want to pursue the matter any further.

8. Learned counsel for the applicants has further drawn the attention of the Court to a compromise between the parties which is placed on record as part of Annexure No.2. In the compromise which is in the form of the receipt which was filed before the S.S.P., Haridwar, it has been stated by the respondent no.2 as first party and applicant no.1 as second party that the respondent no.2 has received

Rs.3,50,000/- in due of her entire maintenance and the parties are ready for dissolving their marriage with mutual consent.

9. Learned AGA for the State also does not dispute the aforesaid situation that the respondent no.2 is no longer interested in pursuing the criminal proceedings against the applicants.

10. It is also apt to refer to a judgment of this Court in Criminal Miscellaneous Application No.1675 of 2022, Sanjay Chatral vs. State of Uttarakhand, wherein in similar circumstances, this Court had quashed the criminal proceedings. In the said case, it was held that since the dispute between the applicant no.1 and respondent no.2 already stands settled by virtue of the decree of mutual divorce and the respondent no.2 has already received her permanent alimony from the applicants and she does not want to participate any sort of criminal proceedings, hence in such a case, letting the matter go into trial would tantamount to abuse of process of law.

11. In the present case also, it is admitted to all that decree of divorce has already been passed and the marriage between the parties has been dissolved by the decree of divorce. Therefore, letting the matter go into trial would be a futile exercise and in the facts and circumstances of the case, it is a fit case for interference under Section 482 of the

Cr.P.C., hence the application under Section 482 Cr.P.C. is allowed and the impugned charge-sheet dated 18.02.2014, summoning order dated 09.04.2014 and the entire proceedings of Criminal Case No.1620/2014 (New No.1751/2014), State vs. Rajnish and others, under Sections 498A, 323, 504, 506 IPC and 3/4 of the Dowry Prohibition Act, P.S. Kotwali, Gangnagar Roorkee, District Haridwar, pending in the court of the Additional Civil Judge (S.D.)/Judicial Magistrate, Roorkee, District Haridwar, are hereby quashed.

(Siddhartha Sah, J.)
23.07.2026

Ravi