

IN THE HIGH COURT OF UTTARAKHAND
AT NAINITAL
CRIMINAL MISC. APPLICATION NO. 388 of 2024

Ved Prakash

.....Applicant

Versus

State of Uttarakhand and Another

.....Respondents

Mr. Prem Kaushal, learned counsel for the applicant.

Mr. Vikas Uniyal, learned Brief Holder for the respondent no.1.

Mr. Bharat Tewari, learned counsel for the respondent no.2.

Hon'ble Siddhartha Sah, J.

By means of the present Criminal Misc. Application under Section 482 of the Code of Criminal Procedure, 1973, the applicant has sought setting aside the impugned summoning order dated 22.12.2023 along with entire proceedings of Complaint Case No.294 of 2023, Seema Devi vs. Ved PraKash under Sections 494 and 506 IPC, pending before the court of Additional Chief Judicial Magistrate, Ramnagar, District Nainital.

2. The present 482 application emanates out of an application under Section 156(3) of the Code of Criminal Procedure, 1973 which was filed by the respondent no.2 before the court of ACJM, Ramnagar, District Nainital with the allegations that she was married with the applicant on 12.11.2010 and from the said wedlock, she is having a daughter. It is alleged

that initially after the marriage respondent and applicant used to reside in Ramnagar and applicant did job in various hotels in Ramnagar region and since November 2022, he is working as Manager in Live Box Hotel IT Park, Sahastradhara Road, Dehradun and in February, 2023 he went to Dehradun after taking all ornaments of complainant. It is further alleged by the complainant that during stay in Ramnagar, it revealed to the complainant that the applicant is having relations with various ladies and in July 2023 through instagram post complainant came to know that the applicant has performed second marriage with one Kajal Rajput alias Archu and when complainant inquired from applicant, the applicant abused the complainant and threatened with dire consequences. The application under Section 156(3) Cr.P.C. was ordered to be registered as a complaint case vide order dated 21.09.2023. Thereafter, in support of complaint, the respondent no.2 examined herself under Section 200 Cr.P.C. and the witnesses were examined under Section 202 Cr.P.C. as CW1 and CW2. Thereafter, the trial court after considering the facts and evidence on record has taken cognizance and summoned the applicant to face the trial under Sections 494 and 506 IPC.

3. Assailing the summoning order dated 22.12.2023, learned counsel for the applicant would submit that the applicant has been falsely implicated in the instant case and has been made scapegoat. Perusal of the complaint shows that no evidence has been produced by the complainant to prove that the applicant has performed second marriage. Only on the alleged post on instagram, she has alleged the applicant has performed second marriage. He has further submitted that there is matrimonial dispute between parties and due to this matrimonial dispute, the respondent no.2 has lodged the instant FIR. It is further submitted that the applicant has not performed second marriage and there is no substance in the alleged allegations and there is no independent witness of the alleged incident. He further submits that there are contradictions in the version of complainant as well as statements recorded under Sections 200 and 202 Cr.P.C.

4. It is further submitted that summoning of an accused in a criminal case is a serious matter and the criminal law cannot be set into motion as a matter of course. The order of the learned Magistrate for summoning the accused must reflect that he has

applied his mind to the facts of the case and law applicable thereto. He further prays that the summoning order be quashed.

5. Learned counsel for the respondent no.2 would submit that the second marriage was contracted by the applicant and for the same, complaint has been made and the respondent no.2 has examined herself as well as also examined the witnesses. On the basis of the complaint, the statements recorded under Sections 200 and 202 Cr.P.C., the court, after having considered the facts found a prima-facie case and has summoned the applicant under Section 494 and 506 IPC. Learned counsel for the respondent no.2 would further draw the attention of this court towards the statements of CW1 and CW2 and would submit that the witnesses have duly supported the case of complainant and they stated about the second marriage of the applicant.

6. Having heard learned counsel for the parties and after going through the record, it is evident that the learned Magistrate has considered the complaint and the statements under Sections 200 and 202 Cr.P.C. and has come to the conclusion that a prima-facie is made out and there is sufficient ground to summon the applicant under Section 494 and 506 IPC.

7. The submissions being made on behalf of the learned counsel for the applicant are all factual in nature and same would fall for consideration by the trial court during trial.

8. In such view of the matter, there is no scope for interference under Section 482 Cr.P.C. However, it will be open for the applicant to take all the defenses in his evidence during trial.

9. At this stage, the learned counsel for the applicant would pray that a month time's may be given to the applicant to surrender before the trial court. He has placed reliance of the judgment of Hon'ble the Supreme Court passed in the case of Satender Kumar Antil vs Central Bureau Of Investigation (2022) 10 SCC 51.

10. In view of the above, one month's time is granted to the applicant to surrender before the trial court.

11. With the above observations, the Criminal Misc. Application (C-482 No.388 of 2024) is dismissed.

Siddhartha Sah, J.

Date: 05.06.2026

JKJ/