



IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

Criminal Misc. Application No. 742 of 2024

Kiran Pal Singh and Others

.... Applicants

Versus

State of Uttarakhand and Another

... Respondents

Presence:-

Mr. Pankaj Kumar Sharma, learned counsel for the applicants.

Mr. B.N. Molakhi, learned D.A.G. for the State.

Mr. Arvind Vashisth, learned Senior Advocate assisted by Ms. Disha Vashisth, learned counsel for the respondent no.2.

Hon'ble Siddhartha Sah, J. (Oral)

By means of the present Criminal Misc. Application, filed under Section 482 of the Cr.P.C., the applicants have sought quashing of cognizance/ summoning order dated 17.11.2023 passed by learned Additional Chief Judicial Magistrate, Roorkee, District Haridwar in league with entire proceedings of Complaint Case No. 1770 of 2022 'Sachin Kumar Vs. Kiran Pal & others' for the offences punishable under sections 323, 504 & 506 of IPC, pending before the Court of Additional Chief Magistrate, Roorkee, District Haridwar.

2. Brief facts of the case are that the respondent no. 2 filed a complaint against the present applicants, which got registered as Complaint Case No. 1770 of 2022



‘Sachin Kumar Vs. Kiran Pal & others’ before the Court of Additional Chief Judicial Magistrate, Roorkee, District Haridwar stating therein that the marriage of respondent no. 2 was solemnized with the daughter of applicant no. 1 and sister of applicant nos. 2 & 3 namely Pooja on 23.04.2015 according to Hindu Rites and Rituals and the said marriage was ideal marriage without and dowry. Out of the said wedlock, one son was born on 17.06.2016. It is further alleged that after the marriage, behaviour of Pooja was cruel towards respondent no. 2 and his family members due to which on 30.08.2019, the applicants came to the house of respondent no. 2 and the wife of respondent no. 2 joined their company for going towards her parental house and when the respondent no. 2 requested her that due to her various visits to her parental house, their matrimonial life was not functioning smoothly then the wife of respondent no. 2 has threatened him for dire consequences. Thereafter, the applicants had taken his wife alongwith them and thereafter the respondent no. 2 made various requests to his wife to come back to her matrimonial house but she refused for the same.

3. It is further alleged in the complaint that on 27-08-2022 at about 05.00 PM, when the respondent no.



2 was standing in a shop, the applicant no. 1 came there and told that he had spoiled the life of his daughter and abused him and also gave him proposal to pay Rs. 20 lacs and give divorce to his daughter, failing which, he will face dire consequences. Immediately thereafter, the respondent no. 2 dialed no. 112 and the police reached at the spot and took them to the Police Station where looking into the family dispute (as both were relatives), the matter was settled between the parties in presence of police as well as other witnesses and thereafter when the applicants and the respondent no. 2 came out from the Police Station, then the applicant nos. 2 & 3 have threatened the respondent no. 2 for dire consequences but due to intervention of other persons, they took to their heels from there. Thereafter, at about 08.20 p.m., when the respondent no. 2 returned home and reached at Double Fatak, then the applicants with common intention and carrying sticks and other weapons in their hand abused the respondent no. 2 and started committing marpeet with him and also snatched the golden chain of the respondent no. 2. However, the passers-by have saved the life of respondent no. 2 and thereafter they gave warning that if he does not pay Rs. 20 lacs to his wife and does not give divorce to her, he



will face dire consequences in future and immediately thereafter the respondent no. 2 got medically examined himself in the hospital concerned and also made a complaint against the applicants at Police Station concerned. However, the Police did not lodge FIR against the applicants. Thereafter, he sent a letter to S.S.P. Haridwar through registered post on 19.09.2022. When no heed was paid, the respondent no. 2 had no other option but to file the present complaint against the applicants vide his application dated 06.10.2022 with a prayer to lodge an FIR against the applicants.

4. In support of the complaint, the respondent no. 2 recorded his statements under Sections 200 & of the witnesses under Section 202 of Cr.P.C. before the trial court in which they have supported the version of complaint and based on the complaint & statements under Sections 200 & 202 Cr.P.C, the impugned summoning order has been passed.

5. Assailing the summoning order and the complaint, the learned counsel for the applicants would submit that admittedly, the respondent no. 2 was son-in-law of applicant no. 1 and brother-in-law of applicant nos. 2 & 3. As there was some matrimonial dispute going on between the respondent no. 2 and his wife, the



applicant no.1 being the father tried to reconcile the issue and on the fateful date of incident i.e. 27.08.2022, the applicant no.1 tried to settle the said dispute but the respondent no.2 who just to give criminal colour to a matrimonial dispute dialed 112 and called the police at the spot but thereafter when the entire facts were brought to the notice of the Police of Police Station Roorkee, District Haridwar, they settled the dispute in the form of compromise and in the said compromise, both the parties were ready to settle the dispute amicably and did not want to prosecute each other in any manner vide compromise/agreement dated 27.08.2022.

6. It has been further submitted that the respondent no. 2 got married with the daughter of applicant no. 1 and from said wedlock, one male child was born, but it is the respondent no. 2 who had extra marital affairs with one Shipra, who is wife of Sumit Nayak and without obtaining any decree of divorce from her husband used to reside with the respondent no. 2. This was the sole reason for matrimonial dispute of the daughter of applicant no. 1 and the respondent no. 2 and the applicant no. 1 being the father, tried to reconcile the issue with the respondent no.2 but the respondent no.2 with some ulterior motive got instituted the case against



the present applicants so that he can settle his score with his wife according to his whims and fancies.

7. It has been next submitted that to clarify/prove the act of the respondent no. 2 is clear from the fact that a declaration was given by Shipra and her husband Sumit Nayak in the form of affidavit on which was taken place on 30.06.2022 in which she clearly stated in paragraph no. 4 that she without obtaining decree of divorce from her earlier husband used to reside with the respondent no. 2 w.e.f. 25.06.2022 due to which it is not possible that she reside with her earlier husband and this is the sole reason for matrimonial dispute of respondent no. 2 and his wife and on the fateful date of incident, the applicant no. 1 being the father, tried to reconcile the issue and requested the respondent no. 2 not to blemish the life of his daughter and when the respondent no. 2 remained adamant to reside with Shilpi, then some altercation took place between them and thereafter the matter was settled before the police station, but the respondent no. 2 just to mount pressure upon the applicants, got filed the instant complaint against them, which is nothing but just to save him from clutches of law.



8. It is further pleaded on behalf of the applicants that the respondent no. 2 who had earlier married with the daughter of applicant no. 1 and without taking any decree of divorce from the competent court of law had kept another woman in his house due to which the matrimonial life of the applicant's daughter was disturbed and the applicant being the father tried to reconcile the issue, but due to some extreme consideration, the respondent no. 2 cooked up a false and frivolous story narrating a different story of marpeet, filed complaint against the applicants, which has never taken place.

9. It has also been submitted on behalf of the applicants that without considering the entire material evidence available on record and only taking the version of the respondent no. 2 as true and without considering the fact that the date on which the incident has been shown by the respondent no. 2 was settled before the police Station Roorkee, in a routine manner and without applying its judicious mind, the cognizance has been taken by the Trial Court.

10. Learned counsel for the applicants would next submit that on the particular date, i.e. 27.08.2022, the matter was settled at 5:00 in the evening but it is alleged



that at around 8:00 / 8:30, the applicants have beaten the respondent no.2 for which medical examination was also conducted.

11. Per contra, the learned counsel for the respondent no.2 has placed on record the medical examination report and the photographs in which the respondent no.2 is shown in an injured state. He would submit that the summoning order also indicates that this fact was before the trial court before the summoning order was passed. Learned Senior Advocate has also referred to para 7 of the complaint in which it has been stated that the accused have committed marpeet in which the respondent no.2/complainant had sustained serious injuries. He submitted the report to the Police Station Rookee on 27.08.2022, but the police did not take any action, therefore, he has filed the complaint.

12. In reply, the learned counsel for the applicants would submit that in the peculiar facts and circumstances of the case, the complaint is absolutely false and frivolous in as much as the statement of the witnesses under Section 202 of the Cr.P.C. appear to be doubtful. After taking the Court to the statements under Section 202 Cr.P.C., he would submit that Vinay Kumar Saini was witness of the settlement but in the



statements under Section 202 of the Cr.P.C., he showed ignorance about the persons who have committed the marpeet. He would submit that if the statements of Vinay Kumar Saini recorded under Section 202 of the Cr.P.C. are compared with para 6 of the complaint, wherein, it is stated that the complainant was rescued by the passers-by, thus a false and frivolous case has been set up by the complainant/respondent no.2 and it's a vexation litigation just to implicate the accused persons due to personal and private grudge and as such the case of the applicants would be covered by the judgment of the Hon'ble Supreme Court rendered in the case of **State of Haryana and Others vs. Bhajan Lal and Others** reported in **1992 Supp (1) SCC 335** and he specifically refers to the illustrations (3) and (7) at para 102 which are being extracted hereunder :-

"102. ...

(3) *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.*

(7) *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 and personal grudge."*

13. Per contra, the learned counsel for the complainant / respondent no.2 would submit that the



contentions raised doubting the veracity of the statements of the witnesses recorded under Section 202 of the Cr.P.C. would fall in the domain of evidence which has to be gone into at the trial stage and in exercise of power under Section 482 of the Cr.P.C., High Court cannot travel into factual arena. He has placed on record the medical examination report whose reference is made in para 7 of the complaint and he would submit that the complainant / respondent no.2 was badly thrashed by the applicants which is clear from the photographs, which are part of the lower court record as well as the medical evidence which is on record of the trial court.

14. It is evident from the record that the incident as per the complaint occurred at 8:00 – 8:30 on 27.08.2022, in which, it is alleged that the applicants/accused had beaten the respondent no.2 very badly for which he also underwent medical examination in Shri J.N.S.M. Government Hospital, Roorkee. The contention has been raised on behalf of the applicants that the complaint has been filed since the daughter of the applicant no.1 is the wife of respondent no.2 and the respondent no.2 was living with some other lady and just because they opposed the same, a false and frivolous complaint has been filed. He would further submit that



all the evidence regarding the aforesaid contentions have been placed on record.

15. After considering the entire facts and circumstances of the case, it is evident that the summoning order has been passed by the learned Trial Court after perusal of the entire record and after relying upon the statements of the complainant and the witnesses recorded under Section 202 of the Cr.P.C.. What is being contended on behalf of the applicants certainly falls for examination during trial and on this count in exercise of its power under Section 482 of the Cr.P.C., this Court cannot enter into factual arena. Moreover, there is medical examination report, which duly corroborates the version of the complaint. In such a factual matrix, it is not a fit case for exercise of powers under Section 482 of the Cr.P.C. Moreover, no error is found in the impugned summoning order.

16. Hence, the present Criminal Misc. Application (C482 Application) is dismissed. Interim order stands vacated.

17. Pending Application(s), if any, stands disposed of accordingly.

(Siddhartha Sah, J.)
03.07.2026

Shiv/