



IN THE HIGH COURT OF UTTARAKHAND AT
NAINITAL

Criminal Misc. Application No.276 of 2018

Sheetal Singh

.... Applicant

Versus

State of Uttarakhand and another Respondents

Present:-

Mr. Ashutosh Thakral, learned counsel for the applicant.

Mr. Rakesh Negi, learned Brief Holder for the State.

Hon'ble Siddhartha Sah, J. (Oral)

Office Report dated 10.08.2023 reveals that notice has been served upon respondent no. 2 personally, but none is present on his behalf. Hence, the matter is taken up on its own merit.

2. By means of the present application under Section 482 of the Cr.P.C., the applicant has sought quashing of the charge sheet dated 05.09.2015 under Section 366 of the I.P.C., Case Crime No. 136 of 2015, and further sought to quash the entire proceedings of the aforesaid case pending in the court of the Additional Chief Judicial Magistrate, Roorkee, District Haridwar.



3. The peculiar facts of the case are that the applicant and the daughter of respondent no. 2, namely Pinky, were in a love affair, and they got married as per Hindu rites and rituals at Arya Samaj, Village Tejjalheda, District Muzaffarnagar, on 23rd March, 2015, and the said marriage was also duly registered in the office of the Registrar of Compulsory Registration of Marriages, Roorkee II, Haridwar, on 30th April, 2015. Since the marriage of the applicant and the daughter of respondent no. 2 was a love marriage, although within the same caste and religion, respondent no. 2 was not happy with the marriage of the applicant and Pinky. When the applicant and Pinky got married on 23rd March, 2015, respondent no. 2 lodged an FIR against the applicant, stating therein that when the daughter of respondent no. 2 was going to participate in the B.Sc. final examination on 07.05.2015, the applicant fled away with her.

4. It is the case of the applicant that the FIR itself depicts that the same is based on a concocted story because, prior to the lodging of the FIR, i.e. on 12.05.2015, as well as the alleged incident, i.e. on 07.05.2015, the applicant and Pinky had already got married as per Hindu rites and rituals, and no occasion



would have arisen for the commission of any offence mentioned in the FIR.

5. Learned counsel for the applicant would submit that the I.O., without conducting any investigation into the matter, submitted the charge sheet by showing the applicant as an absconding offender. Thereafter, the Court of the Additional Chief Judicial Magistrate, Roorkee, District Haridwar, also took cognizance against the applicant without considering the material available on record vide the impugned cognizance order dated 27.11.2015. Learned counsel for the applicant would submit that since the applicant and Pinky are a legally wedded couple, are living happily, and are also blessed with a male child, they were not aware of any proceedings against them. However, in the year 2016, when the applicant got to know about the lodging of the FIR dated 07.05.2015, the applicant and Pinky both preferred Writ Petition (Criminal) No. 60 of 2016 before this Court, and this Court granted protection to the applicant by way of an interim order dated 14.01.2016.

6. Learned counsel for the applicant would rely upon the dictum of the Hon'ble Apex Court in the case of *Lata Singh vs. State of U.P.*, reported in (2006) 5 SCC



475, and would submit that no criminal prosecution can be lodged against married couples who have attained majority and got married in accordance with the law.

7. It would be apt to refer to the relevant paragraphs of the aforesaid judgment hereunder for ready reference:-

“14. This case reveals a shocking state of affairs. There is no dispute that the petitioner is a major and was at all relevant times a major. Hence she is free to marry anyone she likes or live with anyone she likes. There is no bar to an inter-caste marriage under the Hindu Marriage Act or any other law. Hence, we cannot see what offence was committed by the petitioner, her husband or her husband's relatives.

15. We are of the opinion that no offence was committed by any of the accused and the whole criminal case in question is an abuse of the process of the court as well as of the administrative machinery at the instance of the petitioner's brothers who were only furious because the petitioner married outside her caste. We are distressed to note that instead of taking action against the petitioner's brothers for their unlawful and high-handed acts (details of which have been set out above), the police has instead proceeded against the petitioner's husband and his relatives.

17. The caste system is a curse on the nation and the sooner it is destroyed the better. In fact, it is dividing the nation at a time when We have to be united to face the challenges before the nation unitedly. Hence, inter-caste marriages are in fact in the national interest as they will result in destroying the caste system. However,



disturbing news are coming from several parts of the country that young men and women who undergo inter-caste marriage, are threatened with violence, or violence is actually committed on them. In our opinion, such acts of violence or threats or harassment are wholly illegal and those who commit them must be severely punished. This is a free and democratic country, and once a person becomes a major he or she can marry whosoever he/she likes. If the parents of the boy or girl do not approve of such inter-caste or inter-religious marriage the maximum they can do is that they can cut-off social relations with the son or the daughter, but they cannot give threats or commit or instigate acts of violence and cannot harass the person who undergoes such inter-caste or inter-religious marriage. We, therefore, direct that the administration/police authorities throughout the country will see to it that if any boy or girl who is a major undergoes inter-caste or inter-religious marriage with a woman or man who is a major, the couple is not harassed by anyone nor subjected to threats or acts of violence, and anyone who gives such threats or harasses or commits acts of violence either himself or at his instigation, is taken to task by instituting criminal proceedings by the police against such persons and further stern action is taken against such persons as provided by law.”

8. Thus, in view of the aforesaid and the settled position of law as enunciated by the Hon’ble Supreme Court in the case of Lata Singh (*supra*), the learned counsel for the applicant seeks quashing of the charge sheet as well as the entire proceedings of the aforesaid case.



9. Learned counsel for the State, Mr. Rakesh Negi, would not dispute the aforesaid facts and the position of law.

10. After having heard the learned counsel for the parties and gone through the record, it is clear that the applicant and Pinky, the daughter of respondent no. 2, were major on the date of their marriage, and they solemnized their marriage, which was duly registered before the Registrar of Compulsory Registration of Marriages, Roorkee, Haridwar, as reflected in the marriage certificate dated 30th April, 2015.

11. In such view of the matter, and especially in view of the judgment of the Hon'ble Supreme Court in the case of Lata Singh (*supra*), the continuation of the further proceedings in the aforesaid criminal case amounts to an abuse of the process of law and is liable to be quashed.

12. Hence, the Criminal Miscellaneous Application under Section 482 of the Cr.P.C. is allowed, and the charge sheet dated 05.09.2015 under Section 366 of the IPC, bearing Case Crime No. 136 of 2015, Police Station Roorkee, District Haridwar, as well as the cognizance order dated 27.11.2015 passed in Criminal Case No. 2259 of 2015, State vs. Sheetal, under Section 366 of the



IPC, pending in the court of the Additional Chief Judicial Magistrate, Roorkee, Haridwar, are hereby quashed.

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BALWANT SINGH

Digitally signed by RAJWANT SINGH
DN: cn=RAJWANT SINGH, o=COURT OF UTTARANCHAL, ou=COURT OF
UTTARANCHAL, email=rajwantsingh@uttarakhand.gov.in,
c=IN, postalCode=261001, st=UTTERANCHAL,
serialNumber=6481, c=INDIA, postalCode=261001, st=UTTERANCHAL,
serialNumber=6481, email=rajwantsingh@uttarakhand.gov.in,
cn=RAJWANT SINGH