

**Dharampal and Another Vs. State of Uttarakhand and Another**

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**Court : Uttaranchal**

**Decided On : Jan-03-2012**

**Reported in : 2012CrLJ206(NOC)**

**Judge : Servesh Kumar Gupta**

**Appeal No. : Criminal Misc. Application No. 933 of 2007**

**Appellant : Dharampal and Another**

**Respondent : State of Uttarakhand and Another**

**Judgement :**

Servesh Kumar Gupta, J.

1. It is pertinent to mention that none turned up on behalf of respondent no. 2 despite sufficient service upon him so this Court rendered hearing to learned counsel for the applicants and learned Brief Holder for the State.

2. By means of this petition under Section 482 Cr.P.C. a prayer has been advanced to quash the order of cognizance dated 23.10.2007 passed by Additional Chief Judicial Magistrate, Haridwar in Criminal Complaint Case No. 995 of 2007 titled as Yashpal Vs. Dharampal and another. It has also been prayed to quash the entire proceedings of the said complaint case.

3. The facts qua controversy are that Puja, daughter of applicants Dharampal and Sunita, was espoused with private respondent no. 2 Yashpal in early 2006. After a couple of months, differences cropped up between two families on the question of dowry and Puja faced tyrannical and atrocious conduct at the hands of her husband Yashpal as well as other members of the matrimonial house. There was a demand of Rs.15,000/-, in cash, besides a motorcycle and colour TV. She was cruelly dealt with by all the members of matrimonial home, who were having voracious demand of dowry, as stated hereinabove. All persuasions went in vain. On 15.07.2007 at about 09.00 p.m. Yashpal along with his father Vikram, mother Vimla Devi and sisters-in-law Meenu and Savita came to the house of applicants and left Puja. All attempts made by applicants to woo the accused persons could not yield any result.

4. Feeling constrained, an application under Section 156 (3) Cr.P.C. was moved on dated 07.09.2007 whereupon First Information Report against accused persons could be lodged on 28.10.2007. This Court is not aware as to what happened further as a result of lodging of the said First Information Report. However, when Yashpal and his family members got information that an attempt is being made to lodge First Information Report against them, a complaint was instituted by Yashpal (husband) against the applicants on 24.09.2007 under Section 504, 506 IPC. He averred to have received a telephonic call on 19.09.2007 at 09.00 a.m. by Dharampal and Sunita calling him, in person, to fetch Puja from their house. He accordingly reached to his in-law's house on 21.09.2007 taking Ajab Singh and Babloo with him and asked to send his wife (Puja) with him. This offer, put forth by Yashpal, offended Dharampal and Sunita, who abused in filthy style while his wife Puja was ready to leave her native house with him. Ajab Singh and Babloo, who were accompanying Yashpal strived to persuade the applicants but to no avail. Applicants insulted Yashpal and expelled him from their house along with a threat to kill him in future.

5. Complainant Yashpal and his witnesses Ajab Singh as well as Babloo examined under Section 200 Cr.P.C. and 202 Cr.P.C. respectively. Learned Magistrate, having gone through the alleged facts of the complaint and statements of the complainant and his witnesses aforementioned, took cognizance of the matter on

23.10.2007, which is impugned in this petition.

6. Learned counsel for the applicants has contended that this launching of the complaint is an overt counterblast of the First Information Report lodged against him and his family members on 28.10.2007. Besides, in the statement under Section 200 Cr.P.C. complainant Yashpal has deposed to have received a telephonic call of Dharampal on 19.09.2007 asking him to come to their home on 21.09.2007. At this telephonic call, he along with Ajab Singh and Babloo reached to the house of applicants on 21.09.2007 while statement of Ajab Singh recorded under Section 202 Cr.P.C. discloses that they reached the house of applicants on 19.09.2007.

7. This is a material contradiction rendering a reflection regarding falsity of the facts stated in the complaint. It can be discerned that launching of the complaint by Yashpal is a sheer repercussion of lodging of the First Information Report against him and his family members. Otherwise also, the contents of the complaint do not concomitant Section 504, 506 IPC. Merely allegation of extending threat to kill is not enough to attract the provision of Section 506 (2) IPC. The depth and gravity of the words uttered by the persons extending the threat is to be assessed from the circumstances, as to make offence under Section 506 (2) IPC, which is completely lacking in the averments of the complaint, as has been stated herein. So this petition has merits and accordingly, it is allowed. Impugned order of cognizance dated 23.10.2007 as well as proceedings of Complaint Case No. 995 of 2007 pending in the court of ACJM, Haridwar are hereby quashed.

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