

Judgment reserved on: 20.05.2025
Judgment delivered on: 03.06.2025

HIGH COURT OF UTTARAKHAND AT NAINITAL

Criminal Misc. Application u/s 482 No.735 of 2022

Ashok Kapoor and Ors.Applicants

Vs.

State of Uttarakhand and AnotherRespondents

Presence:

Mr. R.P. Nautiyal, learned senior counsel assisted by Mr. Pavan Kumar Nath, learned counsel for the applicants.

Mr. Shailendra Singh Chauhan, learned D.A.G. with Mr. Vikas Uniyal, learned Brief Holder for the State of Uttarakhand/ respondent No.1.

Mr. Gaurav Kandpal, learned counsel for respondent No.2.

Hon'ble Pankaj Purohit, J. (Per)

By means of the present C482 application, the applicants have challenged the charge-sheet No.10 of 2022 dated 24.02.2022, summoning/cognizance order dated 22.04.2022, passed by learned Judicial Magistrate, Purola, District Uttarkashi, in Criminal Case No.103 of 2022, *State of Uttarakhand Vs. Kapil Kapoor and Others*, punishable u/s 323, 498-A, 504, 506, 120-B IPC and under Section 3/4 of the Dowry Prohibition Act, 1961, along with the entire proceedings of the aforesaid criminal case.

2. The facts in brief are that the son of applicant No.1 and respondent No.2 got married on 24.11.2020 as per Hindu Rites and Customs. On 18.08.2021, respondent No.2 lodged an FIR with P.S. Purola, District Uttarkashi implicating her husband, father in-law (applicant No.1), sister in-law (applicant No.3), husband of sister in-law (applicant No.4) and even mother in-law of the applicant No.3 (applicant No.2) under the aforementioned Sections alleging therein that in spite of receiving various costly gifts

during marriage ceremonies, her husband along with his other family members were demanding 20 lakhs rupees from the family of the respondent No.2-complainant and were subjecting her to cruelty for the said demand.

3. Learned counsel for the applicants pleads that the FIR is lodged on false and concocted facts. He submits that the conduct of respondent No.2 was of quarrelling nature and since, the inception of marriage did not get along with her husband or applicants or other family members, she herself on 12.04.2021 left the matrimonial house along with all her belongings and started living in her parental house. He further submits that respondent No.2 got furious and lodged an FIR against her husband and applicants, when she got to know that due to her conduct, applicant No.1 has disowned and disinherited her husband and her from all his property.

4. Learned counsel for the applicants submits that before lodging of the FIR, respondent No.2, on the same set of facts has filed an application under Section 156(3) Cr.P.C. on 07.07.2021, but she herself had withdrawn it as not pressed on 31.07.2021. She again filed the second application under Section 156(3) Cr.P.C. on 11.08.2021 on same concocted grounds against her husband and his family members. In between, during the pendency of the said application, she lodged an FIR against her husband and his family members on 18.08.2021. He further submits that she did not bring the instant FIR to the notice of learned Judicial Magistrate, Purola, District Uttarkashi and again withdrew the said application on 28.08.2021 on the ground that respondent No.2 was no more interested in continuing the case. This conduct of respondent No.2 itself is sufficient to show that the FIR was lodged out of pure ill will. He further submits that the Investigating Officer without proper investigation and without collecting

evidence, has submitted the charge-sheet under the aforementioned Sections, without taking notice of the fact that applicant No.1 before lodging the FIR, has vide publication dated 17.06.2021 had disowned his son and respondent No.2 and has been living away from them.

5. Learned counsel for the applicants submits that the date of lodging of FIR is very evidently later than the date of publication in Newspaper., therefore, is clearly an offshot of the frustration of respondent No.2 with regard to her being disinherited from the property. He further submitted that the Investigating Officer also didn't take into consideration the letter dated 29.05.2021, whereby, the applicant No.1 has lodged a complaint with SSP (Senior Citizen Cell), against his son, respondent No.2, mother of respondent No.2, brother of respondent No.2. He further emphasized on the fact that the daughter of applicant No.1 i.e. sister-in-law of respondent No.2 is married and stayed in her matrimonial home. In spite of this fact, implicating her, her husband and her mother-in-law clearly shows utter frustration of respondent No.2 and which is quite evident of the fact that respondent No.2 is vindictive towards them. Thereafter, he submits that the learned Judicial Magistrate also without applying its judicial mind, has mechanically taken cognizance and issued summons against the applicants.

6. Per contra, learned State Counsel has supported the prosecution story and submits that the Investigating Officer after due investigation and after taking in consideration the statement of respondent No.2 recorded under Section 161 Cr.P.C. has duly submitted the charge-sheet, on which the learned Judicial Magistrate has lawfully taken cognizance and summoned the applicants.

7. Learned counsel for the respondent No.2 also took the same line of argument as that of learned State

Counsel. He further submitted that veracity of the case can only be tested during trial before the learned Magistrate. He also submits that the present matter does not fall in the rarest of the rare category.

8. After hearing the learned counsel for the parties and on perusing the material available on record along with keeping in mind the glaring fact and conduct of applicant No.1 lodging of complaint in Senior Citizen Cell against the respondent No.2 much before the lodging of FIR and the chain of events viz. subsequent filing of 156(3) Cr.P.C. application by respondent No.2 and later withdrawing it that too two times, with publication in newspaper regarding disowning of his son and respondent No.2, resulting in subsequent filing of the FIR at the hands of respondent No.2 implicating applicant No.1 and his other distant relatives, and further the fact of applicant No.1 along with the other applicants live at separate places away from respondent No.2, this Court is of the view that there could have no occasion to meet out ill treatment against the respondent No.2 as alleged by her in the FIR. Moreover, as the other applicants except applicant No.1 will avail no benefit, even if demands are met by respondent No.2, there could be no reason to believe that they ill treated respondent No.2 for demand of dowry as alleged by her. This Court is further of the view that the allegations against the applicants are untenable and appear to be concocted. Therefore, making it a fit case of quashing by invoking the inherent powers as provided under Section 482 of Cr.P.C., not doing so may result to abuse of process of law *qua* the applicants.

9. In view of the above, the present C482 application is allowed. Consequently, the entire proceedings of Criminal Case No.103 of 2022, *State of Uttarakhand Vs. Kapil Kapoor and Others*, pending in the Court of learned

Judicial Magistrate, Purola, District Uttarkashi, is hereby quashed *qua* the applicants, *namely*, Ashok Kapoor (applicant No.1), Sarita Painuly (applicant No.2), Payal Painuly (applicant No.3) and Nitin Prakash Painuly (applicant No.4). Resultantly, the Charge Sheet No.10 of 2022 dated 24.02.2022 and FIR No.63 of 2021 dated 18.08.2021 stand quashed *qua* the above mentioned applicants.

10. Interim order dated 21.05.2022 stands vacated.
11. Pending application, if any, also stands disposed of.

(Pankaj Purohit, J.)
03.06.2025

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