



IN THE HIGH COURT OF UTTARAKHAND AT
NAINITAL

Criminal Misc. Application No.1736 of 2021

Salman Ali

.... Applicant

Versus

State of Uttarakhand and another Respondents

Present:-

Mr. Mohd. Sohail, learned counsel holding brief of Mr. Sandeep Kothari, learned counsel for the applicant.

Mr. Siddhartha Bisht, learned AGA for the State.

Mr. Maneesh Bisht, learned counsel holding brief of Mr. Vipul Sharma, learned counsel for respondent no.2.

Hon'ble Siddhartha Sah, J. (Oral)

By means of the present criminal miscellaneous application under Section 482 of the Code of Criminal Procedure, the applicant has sought quashing of the impugned cognizance/summoning order dated 27.11.2020 passed by the learned Incharge Chief Judicial Magistrate, Dehradun, in Criminal Case No. 4062/2020, State Vs. Salman (arising out of Case Crime No. 309/2020, under Sections 376, 313, and 506 of the IPC, Police Station Kotwali Jwalapur, District Haridwar, subsequently transferred to Police Station Dalanwala,



District Dehradun, as Case Crime No. 109/2020, under Sections 376, 313, and 506 of the IPC), and further to quash all consequential proceedings pursuant to the aforesaid cognizance/summoning order dated 27.11.2020 passed by the learned Incharge Chief Judicial Magistrate, Dehradun, in Criminal Case No. 4062/2020 (State Vs. Salman) under Sections 376, 313, and 506 of the IPC, Police Station Dalanwala, District Dehradun.

2. The case of the applicant, as pleaded in the Miscellaneous Application under Section 482 Cr.P.C., is that the applicant is a permanent resident of Village Sultanpur Adampur, Tehsil Laksar, District Haridwar. As per the agreement between the family members of the Applicant and Respondent No. 2, the marriage between the Applicant and Respondent No. 2 was fixed in the year 2016. However, due to certain differences, it was decided that the marriage would not be solemnized.

3. It is the case of the Applicant that Respondent No. 2 conspired with certain persons to commit the theft of the Applicant's mobile phone with the objective of feeding obscene photographs and vulgar videos into the memory of the mobile phone so that a case could be fabricated to falsely implicate the Applicant on the basis of the said obscene photographs and vulgar videos,



alleging that they were taken during the period when the parties were in contact with each other, thereby pressurizing the Applicant to solemnize the marriage with Respondent No. 2.

4. It is further the case of the Applicant that, in order to achieve the aforesaid objective, on 08.06.2020, a robbery was committed against the Applicant while he was returning from his duty. Three persons, who were coming from behind on a motorcycle, snatched and robbed the Applicant of his Vivo V9 mobile phone containing two active mobile numbers, namely 9897893225 and 9411164613. The Applicant reported the said incident to the police, on the basis of which a First Information Report was registered as Case Crime No. 216 of 2020 under Section 392 of the IPC at Police Station Bahadrabad, District Haridwar, on 08.06.2020.

5. It is further the case of the Applicant that, during the investigation of the aforesaid case, the police recovered the Applicant's mobile phone from the accused persons, namely Burhan, son of Meharban, and Danish, son of Samim Ahmad. Upon interrogation, the accused persons stated that their sister/respondent no.2, daughter of Mazahir Hasan, had informed them that the present Applicant, a resident of Laksar, had data



containing obscene photographs and videos on his mobile phone and was threatening to circulate the same before the marriage. They further stated that they were pressured by respondent no.2 to obtain the mobile phone, and accordingly, on 08.06.2020, the robbery was committed.

6. The police also found the involvement of some other persons and Respondent No. 2, who was also made an accused in the aforesaid case under Section 120-B of the IPC. A charge sheet was submitted in the aforesaid case under Sections 392 and 411 of the IPC, and against Respondent No. 2 under Section 392 read with Section 120-B of the IPC.

7. It is further the case of the Applicant that when the aforesaid First Information Report was registered on 08.06.2020 and when the arrests and recoveries were made on 13.06.2020, Respondent No. 2 lodged a false and fabricated case on 24.06.2020 at Police Station Kotwali Jwalapur, District Haridwar, wherein it has been alleged that, in the year 2016, the marriage of the informant/Respondent No. 2 was fixed with the present Applicant and, during such period, there were repeated meetings between Respondent No. 2 and the Applicant. However, subsequently, she came to know



that the Applicant was having affairs with other girls, and hence, it was decided not to solemnize the marriage between the parties. The present Applicant was intimidating Respondent No. 2 by threatening that the photographs in his possession would be made viral, and it is alleged in the FIR that, by pressurizing her, the Applicant established forcible physical relations with her. It is further alleged that she became pregnant and that the Applicant administered her a tablet, as a result of which the abortion took place.

8. It is further alleged in the FIR that, initially, due to social pressure, she did not discuss the incident, but later informed her family members and reported the matter. After the lodging of the FIR, the Investigating Officer, upon finding that the incident fell within the territorial jurisdiction of Police Station Dalanwala, District Dehradun, transferred the case to Police Station Dalanwala, District Dehradun, where it was registered as Case Crime No. 109/2020 under Sections 376, 313, and 506 of the IPC.

9. It is further the case of the Applicant that, as a counterblast, when Respondent No. 2 got implicated in the criminal case of robbery, and when the motive behind the robbery was to feed the memory of the Applicant's



mobile phone with certain obscene photographs of Respondent No. 2 so that the Applicant could be implicated in a false case, the present First Information Report came to be registered.

10. It is also the case of the Applicant that the allegations regarding obscene photographs and vulgar videos were not substantiated for the simple reason that the Applicant's mobile phone was sent to the CFSL, from where the complete data of the phone was retrieved and provided to the Investigating Officer. However, nothing adverse against the Applicant was found in the pen drive so provided by the FSL. A copy of the FSL report has been placed on record.

11. It is also the case of the Applicant that the allegations made in the FIR regarding the commission of rape or assault contain no particulars as to the manner in which they have been made. The only purpose of Respondent No. 2 was to falsely implicate the Applicant.

12. In a routine and mechanical manner, the charge sheet has been submitted, and the learned Magistrate has taken cognizance and summoned the Applicant to face trial vide order dated 27.11.2020.



13. It is also submitted on behalf of the Applicant that the FIR and the conclusions arrived at during the investigation, as reflected in the charge sheet, clearly reveal that no offence has been committed by the Applicant. It is submitted on behalf of the Applicant that, due to certain differences, the marriage between the Applicant and Respondent No. 2 could not be solemnized. Both parties were majors and were fully aware of the relationship they were entering into, and it was not a case of a false promise of marriage. The Applicant always intended to solemnize the marriage, but due to differences between the families, the marriage could not take place. The FIR has been lodged against the Applicant to pressurize him in relation to the FIR lodged by the Applicant against the persons who had robbed his mobile phone, in which Respondent No. 2 is also implicated. There was no intention on the part of the Applicant not to solemnize the marriage.

14. On the aforesaid premise, it was prayed that the charge sheet, the summoning order, and the entire proceedings against the Applicant be quashed.

15. Per contra, learned counsel for respondent No. 2, Mr. Maneesh Bisht, holding brief for Mr. Vipul Sharma, admitted the fact that marriage talks had taken



place and also admitted that a Roka ceremony was held on 27.11.2016. He submitted that, during the marriage talks/interactions between the Applicant and Respondent No. 2, certain photographs were taken, which were stored in the Applicant's mobile phone. When Respondent No. 2 came to know that the Applicant had relationships with other girls, she called off the marriage talks. In the year 2019, the Applicant started blackmailing her on the basis of the photographs stored in his mobile phone.

16. By referring to the medical examination report, the learned counsel for Respondent No. 2 submitted that the physical relationship between the Applicant and Respondent No. 2 was not entered into on the false pretext of marriage but on account of the photographs contained in the Applicant's mobile phone. Referring to the medical examination report of Respondent No. 2, he submitted that it records a history of sexual assault on multiple occasions from August 2019 to November 2019 after the victim was intoxicated with some substance and threatened with photographs and videos.

17. Thus, the learned counsel for Respondent No. 2 submitted that this is not a case in which interference ought to be exercised by the Court under Section 482 Cr.P.C. He further submitted that the FSL report itself



states that the deleted and formatted data could not be retrieved from the Applicant's mobile phone, and that it was last accessed on 22.08.2020.

18. Learned AGA for the State, Mr. Siddharth Bisht, relied upon the statements of the victim recorded under Section 164 Cr.P.C. and submitted that the victim has supported the prosecution case and has remained consistent in her statements regarding the offences allegedly committed by the Applicant. He submitted that there is no scope for interference in the present case under Section 482 Cr.P.C.

19. Having heard the learned counsel for the parties and upon perusal of the record, the following facts are undisputed:

- i. Marriage talks were going on between the Applicant's family and Respondent No. 2 and her family. It is admitted that a Roka ceremony was held on 27.11.2016.
- ii. It is borne out from the statements of the victim recorded under Section 164 Cr.P.C. that the marriage talks were called off in January 2020 at the instance of the family members of Respondent No.



2 after it came to light that the Applicant was involved with some other girls.

- iii. The statements recorded under Section 164 Cr.P.C. also indicate that Respondent No. 2 has admitted that the physical relationship between her and the Applicant was entered into voluntarily.

20. Firstly, it is an admitted fact that an FIR was registered at the instance of the Applicant on 08.06.2020 at Police Station Bahadrabad, District Haridwar, wherein it was alleged that three persons had robbed him of his mobile phone.

21. It is also an admitted fact that, pursuant to the aforesaid FIR dated 08.06.2020, a charge sheet was submitted in which the name of Respondent No. 2 also surfaced along with the other co-accused. It is also evident from the record that an FIR was registered at Police Station Dalanwala on 13.07.2020 at the instance of Respondent No. 2 pursuant to her complaint addressed to the SSP, Haridwar, dated 16.06.2020. It is pertinent to mention that the Applicant's mobile phone had already been recovered by the police on 13.06.2020 during the investigation of the FIR dated 08.06.2020.



22. Heard the learned counsel for the parties at length and perused the record.

23. The first issue for determination by this Court is whether, in the facts and circumstances of the present case, the FIR registered at the instance of Respondent No. 2 pursuant to her application/complaint addressed to the SSP, Haridwar, and ultimately registered on 13.07.2020, was a counterblast to the FIR dated 08.06.2020 lodged by the Applicant.

24. First of all, the FIR lodged at the instance of Respondent No. 2 requires a brief narration. In the FIR, Respondent No. 2 stated that, in the year 2016, her family members had fixed her marriage with the Applicant, and thereafter, she started meeting the Applicant, during which he clicked certain photographs of her. Subsequently, she came to know that the Applicant had relationships with certain other girls. Therefore, she and her family members refused to proceed with the marriage. On account of this, the Applicant became hostile and started threatening her by stating that he had certain photographs of Respondent No. 2 stored in his mobile phone, which he would make viral, and he also extended other threats.



25. It is further alleged in the FIR that the Applicant pressurized her and forcibly established physical relations with her. It is also alleged that, when she became pregnant, the Applicant caused her pregnancy to be terminated by administering a tablet. She did not disclose these incidents to her family members due to fear of public shame. However, she later revealed the truth to her family and thereafter lodged the report.

26. However, in her statement recorded under Section 164 Cr.P.C., Respondent No. 2 stated that, in the year 2016, her family members had performed her Roka ceremony with the Applicant. When she went to Dehradun for her studies, the Applicant used to visit and meet her. Everything was cordial between them, and they used to have telephonic conversations. In the year 2019, she took a room at BPS Girls and Boys P.G. Hostel, Dehradun. One day, in August or September 2019, the Applicant came to her room and placed a handkerchief over her nose, after which she does not remember what happened. She fell asleep and later woke up feeling weak and experiencing tightness. When she told the Applicant that she was feeling something strange, the Applicant told her that she appeared to be tired.



27. The Applicant used to visit and meet her on several occasions. When she did not get her menstrual period for some time, Soumya told her that if anything had happened between the two of them, she should take a pregnancy test. Soumya then got a pregnancy test kit for her, and the result came positive. Thereafter, she disclosed the same to the Applicant. The Applicant gave her an abortion pill, following which she underwent an abortion. When she wanted to disclose these facts to her family members, the Applicant threatened her, stating that he had obscene videos and that if she revealed anything, he would make them viral. Consequently, she became frightened. On another occasion, he called her to meet him and again established physical relations with her. Thereafter, Respondent No. 2 disclosed these facts to her family members. Subsequently, in January, the marriage alliance was called off, and the report was lodged in July.

28. A perusal of the statement of Respondent No. 2 recorded under Section 164 Cr.P.C. would reveal that she has admitted that the physical relationship with the Applicant was entered into on her own free will and volition, and that there had been a long-standing relationship between the Applicant and Respondent No.



2. Even with regard to the first instance of the physical relationship between the Applicant and Respondent No. 2, she is not categorical either as to the date or the manner in which it allegedly took place.

29. If the allegations contained in the FIR and the statement recorded under Section 164 Cr.P.C. are considered in the light of the FIR lodged on 08.06.2020 at the instance of the Applicant, it becomes clear that the FIR was lodged by Respondent No. 2 only as a counterblast to the FIR lodged by the Applicant on 08.06.2020. The allegations levelled by Respondent No. 2 against the Applicant regarding the establishment of physical relations under threats based on obscene videos and photographs allegedly stored in the Applicant's mobile phone are belied by the fact that, pursuant to the recovery of the Applicant's mobile phone, the FSL report did not retrieve any such material.

30. The allegations levelled in the FIR lodged by Respondent No. 2 appear to be a counterblast and to have been initiated maliciously due to the earlier FIR lodged by the Applicant on 08.06.2020. Thus, the case of the Applicant would be covered by the judgment of the Hon'ble Supreme Court in *State of Haryana v. Bhajan Lal*, 1992 Supp (1) SCC 335, wherein, in paragraph 102,



Illustration 7, the Hon'ble Supreme Court categorically held that, in cases involving malicious complaints for wreaking vengeance, the High Court may exercise its powers under Section 482 Cr.P.C. to secure the ends of justice. Para 102 of the said judgment is extracted hereunder for ready reference:-

“102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we have given the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

- (1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.*
- (2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.*
- (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.*
- (4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute*



2026:UHC:6629

only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

- (5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.*
- (6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.*
- (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.”*

31. It is apt to refer to the judgment of the Hon’ble Supreme Court in *Jothiragawan v. State Rep. by the Inspector of Police and Another*, 2025 SCC OnLine SC 628. In that case, it was submitted on behalf of the appellant that there were multiple interactions between the complainant and the accused, both of whom were major individuals, which clearly indicated consent on the part of the complainant, the alleged victim.

32. Regarding the allegation of forcible intercourse on the basis of threat and coercion, the Hon’ble Supreme Court came to the conclusion that the allegation of forcible intercourse on the basis of threat and coercion



was not believable, given the relationship admitted between the parties and their willing and repeated visits to hotel rooms.

33. It was also held that the allegation of threat and coercion to compel the victim to have sexual intercourse with the accused was not believable, particularly when, as per the victim's own statement, the same sequence of events was repeated thrice, and on each occasion she willingly accompanied the accused to a hotel room. The victim had also categorically stated that after the first and second incidents she was mentally upset, but that did not deter her from again accompanying the accused to hotel rooms.

34. In the said case, the Hon'ble Supreme Court came to the conclusion that the criminal proceedings initiated against the appellant were nothing but an abuse of the process of the Court. Drawing parallels with the said case, it is clear from the statement of Respondent No. 2 recorded under Section 164 Cr.P.C. that there is an admission regarding the physical relationship entered into between the Applicant and Respondent No. 2. Hence, it would be presumed that the relationship was consensual. Therefore, the allegations that the physical relationship between the parties was entered into on



account of threats to make the photographs and videos viral appear to be an afterthought.

35. In view of the aforesaid facts and circumstances, and considering that the FIR lodged at the instance of Respondent No. 2 appears to be vexatious and motivated by mala fides with the intention of taking vengeance against the Applicant due to personal animosity, the allegations made in the FIR are also absurd and inherently improbable, on the basis of which no prudent person could ever reach the conclusion that there are sufficient grounds for proceeding against the Applicant. Thus, in order to secure the ends of justice and prevent the abuse of the process of law, the present Criminal Miscellaneous Application under Section 482 Cr.P.C. deserves to be allowed.

36. Hence, the Criminal Miscellaneous Application under Section 482 Cr.P.C. is allowed, and the summoning order dated 27.11.2020 passed by the learned Incharge Chief Judicial Magistrate, Dehradun, in Criminal Case No. 4062/2020, State Vs. Salman (arising out of Case Crime No. 309/2020, under Sections 376, 313, and 506 of the IPC, Police Station Kotwali Jwalapur, District Haridwar, subsequently transferred to Police Station Dalanwala, District Dehradun, as Case Crime No.



2026:UHC:6629

109/2020 under Sections 376, 313, and 506 of the IPC), and all consequential proceedings pursuant to the aforesaid cognizance/summoning order dated 27.11.2020 passed by the learned Incharge Chief Judicial Magistrate, Dehradun, in Criminal Case No. 4062/2020 (State Vs. Salman) under Sections 376, 313, and 506 of the IPC, Police Station Dalanwala, District Dehradun, are hereby quashed.

(Siddhartha Sah, J.)

30.07.2026

BS