

**IN THE HIGH COURT OF UTTARANCHAL
AT NAINITAL
Criminal Misc. Application No. 151 of 2002
(Old No. 2756/1995)**

1. Smt. Anuja Garg
W/o Pramod Garg
D/o Girish Chandra Garg
R/o 41/444 Narhi, Lucknow

2. Aditya Kumar Garg
S/o Girish Chandra Garg
R/o Mandi Maulganj, Nagina
District – Bijnor

.....Petitioners

Versus

1. State of Uttaranchal

2. Pramod Garg
S/o Sri R.R. Garg
R/o Jhikwan Bhawan Near Petrol Pump
Gopeshwar,
District – Chamoli

.....Opp. parties

Sri D.C.S. Rawat, learned counsel for the petitioners
Sri G.S. Sandhu, learned A.G.A. for the State.

Hon'ble B.C. Kandpal, J.

This petition u/s 482 Cr.P.C. has been filed by Smt. Anuja Garg and another for quashing the proceedings of criminal case no. 436 of 1995 Pramod Kumar Garg Vs. Smt. Anuja Garg and another pending before the court of Chief Judicial Magistrate, Chamoli.

Brief facts of the case are that the opposite party no. 2 Pramod Kumar Garg filed a complaint against the petitioners u/s 420 I.P.C.

Learned Chief Judicial Magistrate after having considered the complaint and the statement of the witnesses was pleased to observe that there was a prima facie case to proceed against the petitioners u/s 420 I.P.C. vide order

dated 30.05.1995. Learned Chief Judicial Magistrate accordingly summoned the petitioners.

Feeling aggrieved by the aforesaid order this petition u/s 482 has been filed by the petitioners.

Heard learned counsel for the petitioners as well as learned A.G.A. and perused the record.

Learned counsel for the petitioner firstly argued that no prima facie case u/s 420 I.P.C. is made out against the petitioners.

I fail to appreciate this arguments raised by the learned counsel for the petitioners. The contention raised by the learned counsel for the petitioners pertains to the fact which can be assessed and examined by the trial court when the evidence is to be led therein.

I do not find any flagrant injustice and abuse of process of the court. Therefore, there is no scope for exercising inherent power by way of this petition at this stage.

The petition is accordingly dismissed.

The stay order dated 06.09.1995 granted in favour of the petitioners stands vacated.

Learned counsel for the petitioners has invited my attention towards the application filed by them before this court stating therein that during the reconciliation proceedings both the parties have entered into mutual compromise and on the basis of which the decree of mutual divorce was passed by the Principal Judge Family Court, Lucknow on 21.03.1999. It has therefore been prayed that in view of the compromise arrived at between the parties in the case pertaining to Hindu Marriage Act, this court may quash the proceedings of criminal case no. 436 of 1995 pending before the court of Chief Judicial Magistrate, Chamoli.

I do not find any force in the argument advanced by the learned counsel for the petitioners.

In case if the petitioners after entering into compromise with the opposite party no. 2 Shri Pramod Kumar Garg in any way, they may file the document pertaining to their compromise before the court below who after hearing learned counsel for the parties shall decide the matter in accordance with the law.

(B.C. Kandpal, J.)

29th April, 2005
Shiv