

IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

CRIMINAL MISC. APPLICATION (C-482) No. 236 of 2010

1. Birbal
S/o Yashpal
2. Smt. Usha
W/o Birbal
3. Amit
S/o Yashpal
All R/o Hardwar Road,
Laksar, P.S Kotwali, Laksar
District Hardwar
4. Sanjay Kumar
S/o Shri Dharampal
5. Smt. Rakhi
W/o Sanjay
Both R/o Village Badhev Kanukhera
P.S Adarshmandi Samali
District Muzaffarnagar (U.P)

.....Applicants

Versus

1. State of Uttarakhand through
home Secretary Dehradun
2. Smt. Kavita
W/o Amit
D/o Sri Lal Singh
R/o 397 Bankhandi, Rishikesh
District Dehradun

.....Opposite parties

Ms. Sangeeta Miyan, Advocate, present for the petitioner no.3.
Smt. Mamta Bisht, A.G.A, present for the State.
Shri Sandeep kothari, Advocate for the respondent no.2.

Hon'ble Prafulla C. Pant, J.

Heard.

(2) This is Compounding Application No. 686 of 2011, moved on behalf of the petitioner no.3 Amit, and respondent no.2 Smt Kavita. They are husband and wife. Respondent no.2 had earlier lodged First Information Report, and after investigation charge sheet was filed against the petitioners namely petitioner no.1 Birbal (father in law), petitioner no.2 Smt Usha (mother in law), petitioner no.3 Amit (husband) petitioner no.4 Sanjay Kumar (brother in law, NANDOI) and petitioner no.5 Smt Rakhi (married sister in law, NANAD), relating to offences punishable under section 498A, 323, 504 and 506 I.P.C. and one punishable under section 3/4 of Dowry Prohibition Act, 1961. Petitioners have sought quashing of the charge sheet and criminal proceedings on the ground that it is abuse of process of law on the part of the complainant to implicate them in the criminal proceeding.

(3) Today Smt. Kavita (respondent no.2) identified by her counsel Shri Sandeep Kothari, Advocate stated before this court that she does not want any action against her husband as she has joined his company, and started living with her husband separately from her in laws in the same house. Earlier she stated that she was living in her parental house. It is pleaded on behalf of the learned counsel for the petitioner no.3 and learned counsel for respondent no.2 that the impugned proceedings of impugned Criminal Case No. 5432 of 2009 State vs. Birbal and others relating to offences punishable under section 498A, 323, 504 and 506 I.P.C. and one punishable under section 3/4 of Dowry Prohibition Act, 1961, pending in the court of Judicial Magistrate, Rishikesh to be quashed as far as it relates to petitioner no.3 Amit.

(4) In view of Principle of law laid down in ***B.S.Joshi and others vs. State of Haryana and Anr. (2003) 4SCC page 675***, the application moved on behalf of the respondent no.2 and petitioner no.3 deserves to be allowed. However,

it will be harsh to let the proceedings go on against other relatives particularly against married sister in law and brother in law who are Residents of District Muzaffarnagar. Therefore, the Compounding Application No. 686 of 2011 is allowed. In the interest of justice the petition under section 482 of Cr.P.C. is disposed of finally with the direction that the entire proceedings of the Criminal Case No. 5432 of 2009 State vs. Birbal and others relating to offences punishable under section 498A, 323, 504 and 506 I.P.C. and one punishable under section 3/4 of Dowry Prohibition Act, 1961, pending in the court of Judicial Magistrate, Rishikesh, are hereby quashed as against all the petitioners.

(Prafulla C. Pant, J.)

Dt.30.06.2011

N.P

