

# **Sanjay Kumar And Others ..... vs State Of Uttarakhand And Another on 5 May, 2022**

**Author: Ravindra Maithani**

**Bench: Ravindra Maithani**

HIGH COURT OF UTTARAKHAND AT NAINITAL

Criminal Misc. Application No. 454 of 2022

Sanjay Kumar and others

..... Petitioners

Versus

State of Uttarakhand and another

....Respondents

Present:

Mr. Bhunesh Joshi, Advocate for the petitioners.

Mr. Lalit Miglani, A.G.A. for the State.

## **JUDGMENT**

Hon'ble Ravindra Maithani, J.(Oral) The challenge in this petition is made to the entire proceedings of Criminal Case No. 183 of 2021, State Vs. Ved Prakash and others, under Sections 323, 354, 354-B, 504, 506 IPC and Sections 9 (g)/10, 11/12 of the Protection of Children From Sexual Offences Act, 2012 ("the Act"), pending in the court of Additional District and Sessions Judge/Special Judge, POCSO, Haridwar (for short, "the case").

2. Heard learned counsel for the parties and perused the record.

3. The case is based on an FIR lodged by the respondent no.2, the informant on 04.08.2021, under Sections 323, 354, 354 B, 504 and 506 IPC, at Police Station Kotwali Haridwar. According to it, on 04.08.2021, the petitioners assaulted the daughters of the informant aged 12 years and 4 years respectively. The petitioners also misbehaved with the informant, snatched her Chunni and pulled her inside. The informant was threatened to life also. It is this FIR, in which after investigation under Sections 323, 354, 354 B, 504 and 506 IPC and Sections 9

(g)/10, 11/12 of the Act has been filed against the petitioner no.1 Sanjay Kumar and the petitioner no.2 Ved Prakash and charge sheet under Sections 323, 504, 506 IPC has been filed against the petitioner no. 3 Moni @ Rohini and petitioner no.4 Satbiri Devo respectively.

4. Learned counsel for the petitioner would submit that the statement of the informant and victims were taken on more than one occasion during investigation just to implicate the petitioners for the offences punishable under the Act.

5. Learned counsel for the petitioner has not argued that the informant/victims has not stated about any offence under the provisions of the Act.

6. When this Court requested the learned counsel for the petitioners to tell the Court as to how this Court would appreciate the statements of the witnesses recorded during investigation? Particularly how to test their credibility in these proceedings under Section 482 of the Code of Criminal Procedure, 1973 ("the Code")? In answer to it, learned counsel for the petitioners would submit that directions be issued to the court below to consider the bail applications of the petitioner nos. 3 and 4 on the day, when they present their bail applications.

7. The informant and the victim, a girl aged 12 years have stated about the incident. The FIR also discloses commission of offence. During investigation, the victim has also supported the case. Prima facie, offence is made out.

8. It is a proceedings under Section 482 of the Code. No case is made as there is no reason to make any interference unless there are specific reasons and accompanying circumstances to do so.

9. In the instant case, as stated, the FIR discloses commission of cognizable offences. The witnesses have proved the case during investigation and the Investigating Officer found it true. Therefore, there is no reason to make any interference in this petition.

10. The cognizance order dated 18.12.2021 reveals that the petitioner No.1 and the petitioner no.2 are already on bail. The petitioner no.3 and the petitioner no.4 have been summoned under Section 323, 504 and 506 IPC.

11. In so far as consideration of the bail application is concerned, in the case of Satendra Kumar Antil vs. Central Bureau of Investigation and another, 2021 SCC OnLine SC 922, the Hon'ble Supreme Court has laid down guidelines for considering the bail applications and categorized the cases under different categories.

12. The directions of the Hon'ble Supreme Court are law of the land. In order to enforce the directions of the Hon'ble Supreme Court, no further directions of this Court are required.

13. With the above observation, the petition stands disposed of.

(Ravindra Maithani, J.) 05.05.2022 Jitendra