

IN THE SUPREME COURT OF INDIA  
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 326 OF 2020  
(Arising out of S.L.P.(CrI.) No. 7440 of 2019)

Smt. Rekha Gupta .....Appellant(s)

Vs.

State of Uttrakhand & Anr. ....Respondent(s)

O R D E R

Heard learned counsel for the parties.

Leave granted.

This appeal is directed against the order dated 12.04.2019 wherein the learned single Judge of the High Court of Uttrakhand has quashed the FIR No. 2085/2010 and the proceedings arising therefrom against the respondents herein filed by the complainant-Appellant under Sections 354, 482, 323, 504 and 506 of the IPC. The relevant portion of the FIR in this case reads as follows:

"On 24.5.2010 I was alone in the house. My husband had been gone away for his work. That at about 11.30 a.m. my elder brother-in-law (Jeth) Sanjiv Kumar Gupta S/o Late Sh. M.P. Gupta had come to my house and stated to me to not interfere in their property matter. Otherwise you will have to meet heinous consequences thereof. On it I narrated him to ask anything from my husband by his coming, then he started to insolence, betray & abusing with me by pulling from my Saree. Then on coming friends of my husband namely Mahipal Singh S/o Pritam Singh r/o Baroti Wala Vikas Nagar & Puran S/o Sh. Tarva r/o Aasan Baag, my elder brother-in-law (Jeth) Sanjiv Kumar Gupta has fled away from there by going from there he has threatened me to kill."

At the stage of quashing proceedings under Section 482 it is only allegations in the complaint/FIR which have to be taken into consideration. Those allegations as made disclose that some offences have been committed. The High Court has in fact held a mini trial without recording evidence and come to the conclusion that the version given in the FIR is not probable a probable one. The High Court has also been influenced by the fact that the FIR was registered after delay of more than 15 days. The effect of delay in reaching the FIR in a criminal case vary from case to case. Mere delay is not fatal to the prosecution and delay can be explained in a given case. We are of the considered view that the allegations relating to pulling of the sari and abusing the appellant and threatening to kill her are offences which need to be tried by the Trial Court. This FIR could not have been quashed under Section 482 Cr.P.C..

We therefore set aside the order of the High Court and direct the proceedings can continue. However, keeping in view the nature of the offences we direct that the appellant shall not be arrested during the course of trial. We make it clear that we have not expressed any opinion on the merits of the case which shall be decided by the trial Court strictly on the basis of the evidence.

The Appeal is disposed of accordingly.

Pending application(s), if any, shall stand(s) disposed of.

.....J.  
(DEEPAK GUPTA)

.....J.  
(ANIRUDDHA BOSA)

New Delhi;  
20th February, 2020.

ITEM NO.41

COURT NO.13

SECTION II

S U P R E M E C O U R T O F I N D I A  
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (CrI.) No(s). 7440/2019

(Arising out of impugned final judgment and order dated 12-04-2019 in CRLMA No. 344/2011 passed by the High Court Of Uttarakhand At Nainital)

REKHA GUPTA

Petitioner(s)

VERSUS

THE STATE OF UTTARAKHAND & ANR.

Respondent(s)

IA No. 118591/2019 - EXEMPTION FROM FILING O.T.)

Date : 20-02-2020 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE DEEPAK GUPTA  
HON'BLE MR. JUSTICE ANIRUDDHA BOSE

For Petitioner(s) Mr. Siddharth Bhatia, Adv.  
Mr. Vipin Kumar Jai, AOR

For Respondent(s) Mr. Sudarshan Singh Rawat, AOR

Mr. Dhaval Mehrotra, Adv.  
Mr. Sudhanshu Sikka, Adv.  
Mr. Pankaj Miglani, Adv. for  
M/S. K Ashar & Co., AOR

UPON hearing the counsel the Court made the following  
O R D E R

Leave granted.

The Appeal is disposed of in terms of the signed order.

Pending applications, if any, stand disposed of.

(SUMAN WADHWA)  
AR CUM PS

(PRADEEP KUMAR)  
BRANCH OFFICER

Signed order is placed on the file.