

C482 No. 1820 of 2021

Hon'ble Ravindra Maithani, J.

Mr. Vikas Bahuguna, Advocate for the petitioners.

Mr. S.S. Adhikari, Deputy Advocate General for the State.

Challenge in this petition has been made to charge sheet dated 28.01.2019, under Section 323 IPC of Police Station Dalanwala, cognizance/summoning order dated 13.12.2019, passed in Criminal Case No. 70 of 2020, State Vs. Rajnish Juyal and another, by the court of Chief Judicial Magistrate, Dehradun (for short, "the case") and the entire proceedings of the case.

Heard.

The case of the petitioners is that they are the President and Chairman of a school. In that school, the daughter of the respondent no.2 was studying. Her attendance was much short. The respondent no.2 was informed about it. The ISC Board had refused to condone the attendance of respondent no.2, which was desperately low at 34.04%. The daughter of respondent no.2 was not permitted to appear in the Board Examination. It is the case that on 07.02.2018, when the examination was underway, a Shubham Simalti, President of the students Union of D.A.V. alongwith many other persons, entered into the premises of the school and manhandled the petitioners. A report was given, it was not lodged, but subsequently, on an application under Section 156 (3) of the Code of Criminal Procedure, 1973, the case was registered and charge sheet submitted against Shubham Simalti and others, under Sections, 147, 452, 323, 504 and 506

IPC. But, the respondent no.2 was not made an accused. The respondent no.2, in order to wreak the vengeance filed a complaint against the petitioners under Section 323 IPC, on which, order for investigation was obtained and after investigation, charge sheet has been submitted. Whereupon cognizance taken and proceedings of the case were instituted.

Learned counsel for the petitioners would submit that, in fact, with regard to the incident dated 07.02.2018 itself, a false report was lodged by respondent no.2. There is no substance in it. It is just a *malafide* action of respondent no.2 to wreak vengeance against the petitioners.

The NCR lodged by the respondent no.2 is not on record.

Learned counsel for the petitioners gives a statement that with regard to the same incident dated 07.02.2018, false report was lodged by respondent no.2.

Having considered, this Court is of the view that this matter definitely requires deliberations.

Issue notice to the respondent no.2 returnable within four weeks.

Steps to be taken within a week.

Counter affidavit may be filed within four weeks.

List thereafter.

Till the next date of listing, proceedings of the case before the court below shall remain stayed.

(Ravindra Maithani, J.)

15.12.2021