

(2023) 12 UK CK 0123

In the Uttarakhand High Court

Case No : Criminal Miscellaneous Application No. 2396 Of 2023

Aman Mani Tripathi

APPELLANT

Vs

State Of Uttarakhand And Another

RESPONDENT

Date of Decision : 19-12-2023

Acts Referred:

Epidemic Diseases Act, 1897 — Section 2, 3, 188, 269, 270
Disaster Management Act, 2005 — Section 51(b)
Indian Penal Code, 1860 — Section 269, 270
Code Of Criminal Procedure, 1973 — Section 482

Citation : (2023) 12 UK CK 0123

Hon'ble Judges : Ravindra Maithani, J

Bench : Single Bench

Advocate : D.K. Sharma, Prateek Tripathi, Vipul Painuly

Final Decision : Allowed

Judgement

Ravindra Maithani, J

1. The challenge in this petition is made to FIR No.0055 of 2020, Police Station Muni Ki Reti, Tehri Garhwal, chargesheet no.514 of 2020, dated 14.09.2020; the summoning/cognizance order dated 15.10.2020, passed in Criminal Case No.600 of 2020, State Vs. Vinay Sikarwal and Others, by the court of Judicial Magistrate, Narendra Nagar, District Tehri Garhwal ("the case"), as well as the entire proceedings of the case.

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

3. According to the FIR, on 03.05.2020, the police intercepted three cars and signalled them to stop. The petitioner was one of the occupants in one of the cars. There were other persons also in those cars. The FIR records that all the occupants of the cars had no mask. 9 persons were permitted to travel, but there were three more persons in excess, in the cars. The FIR also records that it was against the guidelines of COVID-19 pandemic, as it could have further spread the

disease. The FIR itself records that the petitioner, at the relevant time, was Member of the Legislative Assembly of Uttar Pradesh, and he had taken permission for attending post death rituals of the father of the Chief Minister of Uttar Pradesh.

4. Perusal of the record reveals that in this matter, after investigation, Chargesheet No.55 of 2020 was submitted under Sections 188, 269, 270 and Sections 2 and 3 of the Epidemic Diseases Act, 1897 and Section 51(b) of the Disaster Management Act, 2005, but the court, on 15.10.2020, had taken cognizance only under Sections 269 and 270 IPC. The proceedings of the case are put to challenge.

5. The record further reveals that on 15.10.2020, the court had also taken cognizance against one Jay Prakash Tiwari in the case. Jay Prakash Tiwari had filed a petition under Section 482 of the Code of Criminal Procedure, 1973, which was registered as Criminal Misc. Application No. 1823 of 2022 ("the first petition"). The first petition was allowed by the Court on 14.11.2022. In Para Nos. 14 and 15 of its order dated 14.11.2022, passed in the first case, the Court has observed as follows:-

"14. In that eventuality, and the aspect which has been dealt with by the Punjab and Haryana High Court in the matters of Sidak Singh Sandhu (Supra) because when no action was taken by the authorities against the conduct or an act of the negligence against whom the offence under section 269 of IPC, is attempted to be drawn, the act of prosecution under section 269 of IPC and 270 of IPC, of the person without there being a credible material before the authorities would be bad in the eyes of law. As per the case at hand admittedly when the vehicle was being apprehended, or even thereafter ever there was no test conducted and there was no determination made by the authorities that any of the passengers which were being carried were infected by the Covid19 virus, and as such, section 269 of IPC, would not be made out against the present applicant.

15. As a consequence thereto, and for the reasons assigned above, the C482 Application is allowed. The proceedings of the Criminal Case No.600 of 2020, "State of Uttarakhand Vs. Vinay Sikarwal and Others", pending before the Judicial Magistrate, Narendra Nagar, Tehri Garhwal, would hereby stand quashed qua the present applicant only."

6. At the very outset, the Court wanted to know from learned State Counsel as to what he has to say? The Court particularly asked does the State proposes to file any objections or can the matter be decided based on the material that is available on record? Learned State Counsel would submit that no objection, as such, is to be filed in the matter. He would submit that the matter may be decided based on the material that is available on record.

7. Learned Senior Counsel appearing for the petitioner would submit that the cognizance was taken in the case on 15.10.2020 against many persons. One of them, Jay Prakash Tiwari, had filed the first petition, which has already been

allowed. He would submit that the case of the petitioner is squarely covered by the judgment dated 14.11.2022, passed by this Court in the first petition.

8. Learned State Counsel admits this proposition of law.

9. In the first petition, this Court has relied on the principles of law, as laid down by the Hon'ble Punjab and Haryana High Court in the case of Sidak Singh Sandhu Vs. U.T. Chandigarh and another, passed in CRM-M-19407-2022 (O & M).

11. Essentially, what is the case against the petitioner is that though permission to travel was granted for 9 persons in three cars, but there were 12 persons in those three cars, and they had no mask. It is admitted that the petitioner or any of the co-accused was not medically tested for COVID-19 virus. In that background this Court has held that no prima facie case is made out against the co-accused Jay Prakash Tiwari. Similar is the case of the petitioner. Therefore, this Court is of the view that the case of the petitioner is squarely covered by the judgment dated 14.11.2022, passed by this Court in the first petition. Accordingly, the petition is liable to be allowed.

12. The petition is allowed.

13. The cognizance/summoning order dated 15.10.2020, chargesheet no.514 of 2020, dated 14.09.2020, as well as the entire proceedings of the case are, hereby, quashed qua the petitioner.