

(2010) 09 UK CK 0135
In the Uttarakhand High Court

Anil Bhatla and Smt. Madhu Bhatla

APPELLANT

Vs

District Judge, Special Judicial Magistrate (Second) and
Jasbeer Kaur

RESPONDENT

Date of Decision : 03-09-2010

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 200, 202, 482
Negotiable Instruments Act, 1881 (NI) — Section 138
Penal Code, 1860 (IPC) — Section 120B, 406, 420, 467, 506

Citation : (2010) 3 UC 1497

Hon'ble Judges : Prafulla C. Pant, J

Bench : Single Bench

Judgement

Prafulla C. Pant, J.—By means of this petition, moved u/s 482 of the Code of Criminal Procedure, 1973 (for short Cr.P.C.), the petitioners have sought quashing of the order dated 17.05.2005, passed by Sessions Judge, Haridwar, in Criminal Revision No. 107 of 2004. The order dated 17.04.2004, passed by Special Judicial Magistrate (Second), Haridwar, in Criminal Complaint Case No. 877 of 2003 Jasbeer Kaur v. Anil Bhatla and Ors. is also sought to be quashed.

2. Heard learned Counsel for the petitioners and perused the papers on record.

3. Brief facts of the case are that respondent No. 3 Jasbeer Kaur filed a Criminal Complaint Case No. 877 of 2003, before the trial court, relating to offences punishable u/s 120B, 406, 420, 506, 467 of I.P.C., police station Ranipur, District Haridwar. It is alleged in the criminal complaint by respondent No. 3 that in October 1988, the petitioner No. 1 approached the complainant to part with money inviting her to join the partnership firm. It is further alleged by the complainant that through different cheques she paid money to the petitioners, but the terms of partnership were not honoured by the petitioners. It is also alleged that the complainant got cheated of Rs. 2,52,000/-. It is further alleged that she was threatened by the petitioners. The trial court recorded statement of the complainant Jasbeer Kaur u/s 200 of Cr.P.C., and that of witness Surjeet

Singh u/s 202 of Cr.P.C. The trial court vide its order dated 21.06.2000, after considering the evidence collected, summoned the accused to face the trial in respect of offences punishable u/s 120B, 406, 420, 467, 506 of I.P.C. Against said order petitioners appeared to have filed objections which were rejected vide order dated 17.04.2004. The said order was challenged before the Sessions Judge, Haridwar, by filing Criminal Revision No. 107 of 2004, and the same was also dismissed. Hence, this petition.

4. Learned Counsel for the petitioners submitted that dispute between the parties is of civil nature. It is further pleaded that the petitioners are already been prosecuted for an offence punishable u/s 138 of the Negotiable Instruments Act, as such, the impugned criminal proceedings are not maintainable against them.

5. Having heard learned Counsel for the petitioners, and after going through the papers on record, this Court is of the view that the question of fact as to whether there was dishonest intention on the part of the petitioners is a question of fact which can be examined only by the trial court, after examining the witnesses. It is not desirable on the part of this Court to give its opinion whether there was dishonest intention on the part of the petitioners or not. Merely for the reason that the proceedings u/s 138 of the Negotiable Instruments Act are pending, it cannot be said that the complaint relating to offences punishable u/s 506 and 467 of I.P.C. cannot be maintained separately.

6. For the reasons as discussed above, without prejudice to the rights of the parties, this petition u/s 482 of Cr.P.C., is dismissed. Interim order dated 02.08.2005, is vacated. The trial court may proceed further with the Criminal Complaint Case No. 877 of 2003 Jasbeer Kaur v. Anil Bhatla and Ors. relating to offences punishable u/s 120B, 406, 420, 506, 467 of I.P.C., police station Ranipur, District Haridwar. It is further observed that the petitioners, if they desire, may move to the Sessions Judge for getting tried the aforesaid criminal complaint case, and the case filed u/s 138 of Negotiable Instruments Act, by one court. The Registry is directed to inform the court concerned.