

**(2023) 02 UK CK 0071**

**In the Uttarakhand High Court**

**Case No :** Criminal Transfer Application No. 04 Of 2022 (Under Section 407 Of The Code Of Criminal Procedure)

Anil Kumar Aggarwal

APPELLANT

Vs

Jamil A. Khan & Another

RESPONDENT

**Date of Decision :** 14-02-2023

**Acts Referred:**

Code Of Criminal Procedure, 1973 — Section 407  
Indian Penal Code, 1860 — Section 406, 420, 467, 468, 471

**Citation :** (2023) 02 UK CK 0071

**Hon'ble Judges :** Vipin Sanghi, CJ

**Bench :** Single Bench

**Advocate :** Bhuwan Bhatt, Vinay Bhatt

**Final Decision :** Disposed Of

## Judgement

Vipin Sanghi, CJ

1. The petitioner has preferred the present petition under Section 407 of Cr.P.C. to seek transfer of Suit No.7111 of 2020, "State of Uttarakhand vs. Jameel A. Khan & others", under Section 406 IPC, pending in the Court of Chief Judicial Magistrate, Rudrapur, District Udham Singh Nagar to any other place in the State of Uttarakhand.

2. The case of the petitioner is that he booked three flats in the NRI Lake City Rudrapur, which were being constructed by M/s Samia International Builders Pvt. Ltd. Respondent Nos.1 and 2 are the CMD and Director of the said company respectively. The petitioner paid total Rs.37.00 Lakhs towards the sale consideration of three flats. The said company, however, did not deliver possession of the flats to the petitioner. Consequently, the petitioner lodged a police complaint under Sections 420, 467, 468, 471 IPC, on the basis of which, FIR No.0102 of 2018 was registered at Police Station Rudrapur, District Udham Singh Nagar on 09.03.2018. After investigation, charge-sheet stands filed in the said case before the CJM, Udham Singh Nagar under Section 406 IPC. The

accused, i.e. the respondents, were summoned vide order dated 10.12.2020.

3. The case of the petitioner is that to attend to the case which was fixed on 05.03.2021 he left from Dehradun by taxi to Rudrapur, Udham Singh Nagar. He claims that two masked men approached him and threatened him in the following words:-

4. The petitioner states that on receiving the said threat, he immediately returned back to Dehradun at about 9:30 PM. Thereafter, on 06.03.2021, he filed a complaint before the Senior Superintendent of Police, Dehradun, and also sent the said complaint to the Senior Superintendent of Police, Udham Singh Nagar on the very same day. However, no action has been taken on the said complaint by the police authorities.

5. The petitioner further discloses that the Real Estate Regulatory Authority vide its order dated 12.03.2020 directed M/s Samia International Builders Pvt. Ltd. to refund the entire money, i.e. Rs.37.00 lakhs, to the petitioner with interest @10.15% per annum, which they have failed to refund. The petitioner has also filed Execution Case No.14 of 2020, which has been disposed of, and against which, the respondents have filed an appeal. In the light of the aforesaid, the petitioner has serious apprehension of danger to his life if he proceeds to pursue his case before the CJM, Rudrapur, District Udham Singh Nagar.

6. The grievance of the petitioner is that the police authorities have turned deaf ears to his complaint.

7. Learned counsel for the respondents states that respondent No.2 has ceased to be the Director on 31.01.2011.

8. Heard learned counsel for the petitioner, learned counsel for the respondents, as well as learned counsel for the State.

9. The petitioner is firstly entitled to seek protection, and the State authorities are obliged to grant him protection to enable him to pursue his case without any fear from any quarters. The State is also obliged to inquire into the complaint made by the petitioner, and act accordingly.

10. I, therefore, dispose of this petition with a direction to the State to examine the threat perception experienced by the petitioner in the light of reputation and conduct of the respondents, and provide adequate protection to him so as to enable him to pursue his case before the CJM, Rudrapur, District Udham Singh Nagar. I also direct the State to examine the complaint made by the petitioner, and to act thereon, under intimation to the petitioner.

11. The petition stands disposed of in the aforesaid terms.

12. Pending application, if any, stands disposed of.