

(2007) 12 UK CK 0022

In the Uttarakhand High Court

Case No : Criminal Writ Petition No. 1269 of 2007 (with Stay Application No. Nil of 2007)

Anil Rawat

APPELLANT

Vs

State of Uttarakhand and Others

RESPONDENT

Date of Decision : 13-12-2007

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 156(3)
Penal Code, 1860 (IPC) — Section 420, 506

Citation : (2007) NCC 209

Hon'ble Judges : Prafulla C. Pant, J; Dharam Veer, J

Bench : Division Bench

Advocate : Lalit Sharma, for the Appellant; Pawan Mishra, Advocate for the Respd. No. 3, Mr. G.S. Sandhu, G.A., for the Respondent

Judgement

Hon'ble Prafulla C. Pant

1. Heard learned counsel for the petitioner. Learned Government Advocate accepts notices on behalf of respondents No. 1 and 2. He prays for and is allowed three weeks' time to file the counter affidavit.
2. Notices on behalf of respondent No. 3 Lalit Kumar Goswami are accepted by Mr. Pawan Mishra, Advocate, who also prays for and is allowed three weeks' time to file the counter affidavit.
3. Also, heard on stay application.
4. The first information report appears to have been lodged under order dated 13.11.2007 (copy Annexure-9 to the writ petition), passed by the Chief Judicial Magistrate, Dehradun in Misc. Case No. 271 of 2007, u/s 156(3) of the Code of Criminal Procedure, 1973, which was registered as case Crime No. 444 of 2007, relating to offences punishable u/s 420, 506 of I.P.C. registered with Police Station Kotwali, District Dehradun.

5. From the first information report it is clear that admittedly the complainant (respondent No. 3) obtained a loan from the ICICI bank. It is argued on behalf of the petitioner that on receiving notice for recovery from the bank, respondent No. 3 lodged this first information report not only against the petitioner, who is Collection Manager of the ICICI Bank, but also against the Chairman and Managing Director of ICICI bank, who are posted at Baroda and Mumbai, respectively. It is further contended that ingredients of the offences alleged against accused are not made out from the contents of the first information report. Having perused the papers on record and after considering the submissions of learned counsel for the parties, prima facie, we are of the view that it is case of abuse of process of law not only on the part of the complainant (respondent No. 3) but also on the part of the Chief Judicial Magistrate, Dehradun.

6. It is pertinent to mention here that the respondent No. 3 appears to have earlier filed a criminal complaint against the same accused persons and said complaint has been rejected vide order dated 30.06.2007, passed in Complaint Case No. 2595 of 2007, by Special Judicial Magistrate, Dehradun, as is clear from Annexure No. 3 and 4 to the writ petition.

7. In the circumstances, as an interim measure, the arrest of the petitioner, is hereby stayed during the period of investigation in connection with Crime No. 444 of 2007, relating to offences punishable u/s 420, 506 of I.P.C. registered with Police Station Kotwali, District Dehradun.

8. List this writ petition after the counter affidavits are filed. The Registry is directed to send a copy of this order to the District Judge, Dehradun, and also place one copy before the Registrar General of the Court, for their perusal.