

(2011) 06 UK CK 0088

In the Uttarakhand High Court

Case No : Criminal Miscellaneous Application (C-482) No. 550 of 2011 and Stay Application No. 672 of 2011

Anuj Sarin and Rajeev Gupta

APPELLANT

Vs

State of Uttarakhand and Dalvinder Singh

RESPONDENT

Date of Decision : 27-06-2011

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Negotiable Instruments Act, 1881 (NI) — Section 138

Citation : (2011) 06 UK CK 0088

Hon'ble Judges : Prafulla C. Pant, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Prafulla C. Pant, J.—Heard.

2. By means of this petition, moved u/s 482 of Code of Criminal Procedure, 1973, the Petitioners have sought quashing of the proceedings of Criminal Complaint Case No. 651 of 2010 , Dalvinder Singh v. M/s Uttaranchal Food Pvt. Limited and others, relating to offence punishable u/s 138 of Negotiable Instruments Act 1881, Police Station Rudrapur, District Udham Singh Nagar, pending in the court of Civil Judge (Junior Division) / Judicial Magistrate, Rudrapur.

3. Perusal of the copy of criminal complaint shows that said case is pending since 2007. The summoning order is being questioned after a period of almost four years. Learned Counsel for the Petitioners submitted that a civil suit for recovery of amount has been filed by the complainant. However, it appears that the suit is filed much after the criminal complaint is filed. Apart from this if there is civil as well as the criminal liability, it can not be said that merely by filing the civil suit, complainant has lost his right to maintain the criminal complaint. As far as the plea taken by the Petitioner that the cheque was not given in pursuance to any legally enforceable liability, can be taken by the Petitioner before the trial court.

4. For the reasons as discussed above, this petition u/s 482 of Cr.P.C., is dismissed summarily. Stay Application No. 672 of 2011 also stands dismissed.