
(2011) 08 UK CK 0050

In the Uttarakhand High Court

Case No : Criminal Miscellaneous Application (C-482) No. 675 of 2011

Badari Dutt Lakhera, Devi Prasad Uniyal, Sunder Lal Gangwar and Mahesh Chandra Thapliyal APPELLANT

Vs

State of Uttarakhand RESPONDENT

Date of Decision : 10-08-2011

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 320, 482
Penal Code, 1860 (IPC) — Section 120B, 406, 409, 420, 467

Citation : (2011) 08 UK CK 0050

Hon'ble Judges : Prafulla C. Pant, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Prafulla C. Pant, J.—Heard.

2. By means of this petition moved u/s 482 of Code of Criminal Procedure, 1973 (for short Code of Criminal Procedure), the Petitioners have sought quashing of the proceedings of criminal case No. 671 of 2004, State of Uttarakhand v. Vijay Singh and Ors., relating to offences punishable u/s 406, 409, 420, 467, 468, 471 Indian Penal Code, and one punishable u/s 120B Indian Penal Code, pending in the court of Chief Judicial Magistrate, Tehri Garhwal.

3. Counter affidavit has been filed on behalf of Respondent No. 3 today. Same is taken on record.

4. u/s 320 of Code of Criminal Procedure, offences punishable u/s 420 and 406 Indian Penal Code, are compoundable with the owner of the property.

5. In the present case a compounding application has been moved on behalf of the Petitioners, and Respondent No. 3. Respondent No. 3 is General Manager of the District Co-operative Bank, Tehri. The accused (Petitioners) who were Branch Managers, Cashier and Supervisor of the District Co-operative Bank, Tehri Garhwal, are facing trial in respect of offences mentioned above, in respect of

alleged irregularities committed in loan disbursement by them which relates to the period 2000-01.

6. Learned Counsel for the parties state that in the year 2002, the entire amount of Rs. 1,49,520/- was deposited with the Bank, and on the recommendation of the Bank intimation was sent to Respondent No. 2 that the criminal proceedings be withdrawn. Since, the aforesaid bank is owner of the property in respect of which criminal misappropriation and cheating alleged, the bank has right to compound the offence with the accused. Therefore, this Court has no hesitation in accepting the compounding application in respect of offences punishable u/s 406 and 420 Indian Penal Code. As far as the other offences are concerned reliance is placed on behalf of the learned Counsel for the parties to the case of Nikhil Merchant Vs. Central Bureau of Investigation and Another, , in which the Apex Court has held that where the offence relates to the property dispute, and the matter has been compromised, the criminal proceedings can be quashed even if such offences are not technically compoundable u/s 320 Code of Criminal Procedure.

7. In the above circumstances, in view of the principle of law laid down by the Apex Court, this Court is of the view that the petition u/s 482 Code of Criminal Procedure, deserves to be allowed. Accordingly, the compounding application moved today is accepted in terms as mentioned above. The proceedings of criminal case No. 671 of 2004, State of Uttarakhand v. Vijay Singh and Ors., relating to offences punishable u/s 406, 409, 420, 467, 468, 471 Indian Penal Code, and one punishable u/s 120B Indian Penal Code, pending in the court of Chief Judicial Magistrate, Tehri Garhwal, are hereby quashed.