
(2018) 05 UK CK 0132

In the Uttarakhand High Court

Case No : Writ Petition (Crl.) No. 931 of 2018

BALKAR SINGH AND OTHERS

APPELLANT

Vs

STATE OF UTTARAKHAND AND OTHERS

RESPONDENT

Date of Decision : 29-05-2018

Acts Referred:

Constitution Of India, 1950 — Article 226
Indian Penal Code, 1860 — Section 323, 504, 506
Code of Criminal Procedure, 1973 — Section 173

Citation : (2018) 05 UK CK 0132

Hon'ble Judges : V.K. BIST, J

Bench : Single Bench

Advocate : S.K. Shandilya, Ashutosh Posti, Siddhartha Bisht

Final Decision : Dismissed

Judgement

1. This petition has been filed by the petitioners seeking the following reliefs:

â??A) Issue a writ, order or direction in the nature of Certiorari to quash the FIR dated 03.05.2018, of F.I.R. no. 0160 of 2018, u/s 323, 504, 506 of

I.P.C. at Police Station SIDCUL, District Haridwar.

B) A writ, order or direction in the nature of mandamus commanding the respondent no. 1 & 2 not to harass and arrest the petitioners in view of the

impugned FIR till the collection of credible evidence against the petitioners or till the filing of the report submitted u/s 173 of Cr.P.C.â??

2. Allegation against the petitioners in the F.I.R. lodged by the respondent no.3 (complainant) is that, on 29.04.2018, when the son of the complainant,

namely, Saurabh was going on his motorcycle to fetch the diesel, the petitioners stopped Saurabh.Â Thereafter, they started snatching `2,000,-, which

he was carrying for bringing the diesel.Â When his son resisted, the petitioners

gave a blow with an iron rod on his son, which hit on the right eye of the son of the complainant. When his son made hue and cry, then the accused persons fled away by hurling abuses and extending threat of dire consequences.

3. Learned counsel for the petitioners submitted that the allegations made against the petitioners in the impugned F.I.R. are totally false and, therefore, protection should be granted to the petitioners.

4. Learned Brief Holder vehemently opposed the writ petition. He submitted that allegation made against the petitioners is serious in nature.

Therefore, interim relief should not be granted to the petitioners and the writ petition filed by them deserves to be dismissed at the threshold.

5. I have considered the submission advanced by the learned counsel for the parties and have perused the papers available on record.

6. The Hon'ble Apex Court, in the case of State of West Bengal. Vs. Swapna Kumar, 1982 (1) SCC 561, has held that if an offence is disclosed,

Court will not normally interfere with the investigation into the case, and will permit investigation into the offence alleged to be completed. If the FIR,

prima facie, discloses the commission of an offence, the Court does not normally stop the investigation, for, to do so would be to trench upon the

lawful power of the police to investigate into cognizable offences.

7. I have considered the submission of learned counsel for the parties and gone through the contents of F.I.R. Contents of F.I.R. disclose offence

and it is for the

Investigating Officer to investigate the case and, thereafter, either to file charge sheet or final report in the matter. It is not a fit case, where the

High Court should interfere in this criminal writ petition moved under Article 226 of the Constitution of India. Consequently, the writ petition is

dismissed.

8. Stay application (CLMA No.6727 of 2018) stands rejected.

9. Learned counsel for the petitioners then submitted that the respondent no. 3 is a practicing lawyer at Haridwar and no Advocate is accepting the

brief of the petitioners. He submitted in case offence is made out against the petitioners, in that event, the petitioners will surrender before the Court

and will move the bail applications and the Courts below may be directed to

decide their bail applications same day.Â In my view, every bail application should be considered and decided by the learned Court below without any unreasonable delay; but, needless to say that it should be decided strictly in accordance with law.Â

10. Considering the facts and circumstances of the instant case, the petitioners are directed to appear before the Judicial Magistrate, Roorkee. Â In case the petitioners surrender and move bail applications, the same shall be decided by the Courts below expeditiously, preferably on the same day, in accordance with law.