

(2019) 04 UK CK 0140

In the Uttarakhand High Court

Case No : Criminal Writ Petition No. 585 Of 2019

Balvinder Singh Alias Raju And Another

APPELLANT

Vs

State Of Uttarakhand And Others

RESPONDENT

Date of Decision : 25-04-2019

Acts Referred:

Indian Penal Code, 1860 — Section 147, 188, 332, 353, 504, 506
Constitution Of India, 1950 — Article 226

Citation : (2019) 04 UK CK 0140

Hon'ble Judges : Ravindra Maithani, J

Bench : Single Bench

Advocate : P.C. Petshali, S.S. Adhikari

Final Decision : Dismissed

Judgement

Ravindra Maithani, J

1. The instant petition under Article 226 of the Constitution of India has been filed by the petitioners for quashing the FIR dated 26.03.2019 registered as FIR No.152 of 2019 at P.S. Kashipur, District U.S. Nagar, under Sections 147, 188, 332, 353, 504 & 506 IPC, so far it relates to the petitioners as well as for direction that the petitioners may not be arrested in pursuance to the FIR.

2. Heard and perused the records.

3. An FIR was lodged on 26.03.2019 at about 12:30 noon at Police Station Kashipur, District Udham Singh Nagar with the averment, therein, that on that day when the police party was on patrolling, they saw 2-3 vehicles filled with minerals moving ahead of them, they tried to stop those vehicles but the driver of those vehicles tried to accelerate the speed but somehow they were intercepted and stopped. When the drivers of those vehicles were asked to show the documents they could not reveal any valid documents for the mineral that was being transported in those vehicles. Instead, the driver of the vehicles started threatening the police party in the name of their owners. The vehicles

were seized at 06:30 p.m. and proceeding under Motor Vehicles Act, 1988 were also taken. But meanwhile, according to the FIR the petitioner no.2 Gurpej Singh and the other persons reached at the spot and asked the Sub-Inspector to release the vehicle or else to face the consequences. The petitioner no.2-Gurpej Singh and his associates became violent, extra police force was called and the seized vehicles were taken to the Police Station. At about 10:30 in the late evening, a Arvind Pandey along with petitioner no.2 Gurpej Singh and others, who were about hundred or so in numbers, reached at the police station, started shouting slogans, abusing, mis-behaving and pressurising the police to release the vehicles; they also scuffled with the Police Officers. This is the FIR for quashing of which, the instant petition has been filed.

4. Learned counsel for the petitioners would argue that petitioner no.1 Balvinder Singh is not named in the FIR but police still wants to arrest the petitioners; they are not at all involved in the matter; they are ready to cooperate with the investigation.

5. This is a petition under Article 226 of the Constitution of India. The petition is for quashing of an FIR which evidently discloses commission of cognizable offences. Petitioner no.2 Gurpej Singh is named in the FIR. It appears that name of petitioner no.1 Balvinder Singh alias Raju came into light during because according to the FIR many people assembled at the police station on the date of incident.

6. It is stated that four vehicles, which were transporting minerals unlawfully were seized by the police. It was objected too and the incident is a consequence of it. Meticulous examination of evidenced qua the argument raised is not required at this stage. There would be many more questions which would require to be answered as to what authority the petitioners had in stopping the police personnel in discharge of their duties when the vehicles were seized? What is their lawful authority to take hundred of persons and reach at the Police Station and shout slogans? What was the role of the petitioners? Why they have gone there? These all are factual aspects which can't be looked into at this stage.

7. As stated, the FIR discloses commission of cognizable offences. What is stated in the FIR, if it is true, it is really a challenge to a society, which believes, in the rule of law. This Court constraint to observe that in such matters the Court should be reluctant to make any interference, whatsoever, and accordingly this writ petition deserves to be dismissed and is dismissed accordingly.