(2020) 08 UK CK 0035

In the Uttarakhand High Court

Case No : Writ Petition (Criminal) No. 1299 Of 2020

Deepak Kumar Baweja And Others — APPELLANT

Vs

State Of Uttarakhand And Others — RESPONDENT

Date of Decision : 20-08-2020

Acts Referred:

Indian Penal Code, 1860 — Section 409
Constitution Of India, 1950 — Article 226

Citation : (2020) 08 UK CK 0035

Hon'ble Judges : Ravindra Maithani, J

Bench : Single Bench

Advocate : Parikshit Saini, Pankaj Miglani

Final Decision : Disposed Of

Judgement

Ravindra Maithani, J

1. The instant writ petition has been filed by the petitioners for quashing of an FIR No. 196 of 2020, under Section 409 IPC, Police Station Laksar,

District Haridwar and also directions that the petitioners may not be arrested pursuant to the FIR.

2. Heard learned counsel for the parties through video conferencing.

3. The FIR in the instant case was lodged on 12.03.2020. According to it, a Rohit Giri was working as a non-clerical employee in Punjab National

Bank, Branch Niranjanpur, Tehsil Laskar, District Haridwar. Rohit Giri much cleverly transferred Rs.54 lakhs through U.P.I from the accounts of 24

account holders. It was revealed, on 24.01.2020, when at 04:00 PM, three account holders were in altercation with the Rohit Giri, thereafter, this fraud

was revealed.

4. According to the petitioners, Police is harassing them because Rohit Giri and his father had some business dealings with the petitioners, who deal in

marbles and through U.P.I. link Rohit Giri and his father had transmitted amounts in the account of the petitioners.

5. Learned counsel for the petitioners would argue that now the amount has been returned to the accounts from which, it was transmitted to their

accounts. Learned counsel for the petitioners would further argue that petitioners have no role in the offence. They were in fair dealings with the

Rohit Giri and his father, who happens to be the Gram Pradhan and the money has been returned.

6. This is a writ petition under Article 226 of the Constitution of India. Petitioners are not named in the FIR. The petitioner themselves say that Rohit

Giri and his father transferred money in their accounts through U.P.I and the details have been given. In the petition, it has been shown that the money

transmitted in the account of the petitioners was used. In the account of petitioner no.1 Rs.2,30,000/-, in the account of petitioner no.2 Rs.17,74,000/-,

in the account of petitioner no.3 Rs.2,98,000/-, in the account of petitioner no.4 Rs.15,11,000/- and in the account of petitioner no.5 Rs.4,40,000/-.

7. This Court cannot examine as to why this amount was deposited as there is no material placed by the petitioner. Business documents, income tax

returns, G.S.T returns, etc. to show their dealings have not been filed. Whether the money was transmitted in the account of the petitioners for some

business transaction, or it was money obtained by fraud, which was transmitted, in their account, these are the matters for scrutiny during

investigation, or trial, as the case may be. Therefore, no interference is warranted in this writ petition.

8. Learned counsel for the petitioners would submit that petitioners seeks that direction may be issued to the I.O. that he should follow all the statutory

provisions as well as directions of the court, in case, he proceeds to arrest the petitioners.

9. Needless to say, arrest is not a mechanical act of the Investigating Officer. First and foremost, he has to ascertain the complicity of a person in the

offence and thereafter, to weigh in his mind the need for arrest. This Court has no doubt that the Investigating Officer, in the instant case, shall also

follow the law on the subject of arrest, if any occasion to arrest arises in the instant case.

10. The instant writ petition stands disposed of accordingly.

