
(2010) 10 UK CK 0081

In the Uttarakhand High Court

Case No : Criminal Writ Petition No. 190 of 2010

Devidutt Bisht

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision : 29-10-2010

Acts Referred:

Constitution of India, 1950 — Article 226

Penal Code, 1860 (IPC) — Section 120B, 302, 306, 364, 376

Citation : (2010) 10 UK CK 0081

Hon'ble Judges : Prafulla C. Pant, J; Nirmal Yadav, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

1. Sri M.C. Kandpal, Senior Advocate assisted by Sri S.S. Chaudhary, Advocate present for the petitioner.
2. Sri S.S. Adhikari, A.G.A. present for the State.
3. Sri B.S. Adhikari, Advocate present for the respondent No. 7.
4. Rejoinder affidavit filed on behalf of the writ petitioner be taken on record.
5. Heard.
6. By means of this writ petition moved under Article 226 of the Constitution of India, the petitioner has sought a writ in the nature of certiorari quashing the order dated 26.08.2009 passed by Superintendent of Police, Central Bureau of Investigation, Dehradun. A mandamus has also been sought to initiate the C.B.I. enquiry in the matter.
7. Brief facts of the case are that Deepa Bisht daughter of the writ petitioner, is allegedly abducted from Ranikhet and her dead body was found in Delhi. The First Information Report was got lodged by writ petitioner Davidutt Bisht relating to the offence punishable under Sections 364, 302, 120B IPC. The matter was investigated by the Regular Police of police station, Ranikhet and chargesheet

was filed against accused Lance Nayak Sumit Kumar relating the offence punishable under Sections 376 and 306 IPC. The First Information Report discloses that the complainant had suspected the abduction and murder committed by said accused.

8. Learned Counsel for the State and learned Counsel for the accused drew attention of this Court to the fact that after hearing the parties, the trial court (Sessions Judge, Almora), on 17.11.2009, has framed the charge of the offences punishable u/s 376 and 306 IPC against accused Sumit Kumar who pleaded not guilty and claimed to be tried.

9. The contention of the learned Counsel for petitioner is that it was a case of murder. Perusal of papers shows that it is a case of circumstantial evidence. If trial court during trial finds after recording the evidence that it is a case of murder, it is at liberty to alter the charge and proceed further with the trial.

10. In the above facts of the case, we do not find any sufficient reason to direct investigation by Central Bureau of Investigation in the matter as the accused has already been chargesheeted by regular police and facing the trial before the trial court. Therefore without expressing any opinion as the final merits of the case, pending before the trial court, this writ petition is dismissed.