
(2011) 11 UK CK 0184

In the Uttarakhand High Court

Case No : Criminal Miscellaneous Application (C-482) No. 953 of 2010

Diwan Singh and Others

APPELLANT

Vs

State of Uttarkhand and Others

RESPONDENT

Date of Decision : 30-11-2011

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482

Penal Code, 1860 (IPC) — Section 427, 435, 504, 506

Uttar Pradesh Zamindari Abolition and Land Reforms Act, 1950 — Section 209

Citation : (2011) 11 UK CK 0184

Hon'ble Judges : Prafulla C. Pant, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Hon"ble Prafulla C. Pant, J.—Heard.

2. By means of this petition, moved u/s 482 of Code of Criminal Procedure, 1973, the petitioners have sought quashing of the proceedings of Criminal Complaint Case No. 183 of 2010, Smt Basanti Devi vs. Sher Singh and others relating to offences punishable u/s 435, 504, 506 and 427 I.P.C, pending in the court of Chief Judicial Magistrate, Almora.

3. Learned counsel for the petitioners drew attention of this court to the judgment and order dated 06.07.1996, passed by Sub Divisional Magistrate, Almora in Revenue Case No. 3-20 of 1993-1994, whereby the petitioners No. 1 to 5 won the case filed against the defendants including Bishan Singh (husband of the complainant), u/s 209 of U.P. Zamindari Abolition and Land Reforms Act, 1950. An appeal No. ZA77/44 of 1995-96 was filed by said defendants which was dismissed vide judgment and order dated 20.01.1999, passed by Additional Commissioner (Judicial) Kumaun Division, Nainital. Finally warrant of possession (copy of annexure-3) was issued by the Assistant Collector Almora to deliver the possession of the land in question to the petitioners No. 1 to 5. The possession memo i.e. " DAKHALNAMA" (copy of annexure 4) was prepared on 30.09.2010,

after delivering the possession of the land of Plot No. 7457, 7450, 7446, 7447 and 7459 of village Dhamas to the petitioners No. 1 to 5 in the presence of petitioners No. 6 to 9. It is pleaded that the impugned criminal complaint is filed by the complainant as the counter blast to the dispossession as mentioned above, which is nothing but abuse of process of law.

4. What has been pleaded by the petitioners is supported by certified copies of the orders passed by Sub Divisional Magistrate, Almora, Additional Commissioner (Judicial) Kumaun Division, and warrant of possession issued by Assistant Commissioner Almora, and the memo of possession which are annexed as annexure 1 to 4 to the petition. The respondent No. 2 Smt Basanti Devi even after notice was served on her, has not turned up to controvert the above facts and the certified copies of the documents mentioned above showing that infact it was the under due process of law that the petitioners No. 1 to 5 were given to the possession of land in question, and the complainant and his family members were dispossessed from it. In the criminal complaint the complainant has alleged that complainant and his family members were forcibly dispossessed from the land.

5. In the above circumstances, the impugned criminal complaint appears to be nothing, but abuse of process of law on the part of the complainant.

6. Accordingly, the petition u/s 482 of Cr.P.C., is allowed. The proceedings of Criminal Complaint Case No. 183 of 2010, Smt Basanti Devi vs. Sher Singh and others relating to offences punishable u/s 435, 504, 506 and 427 I.P.C, pending in the court of Chief Judicial Magistrate, Almora, are hereby quashed.