
(2011) 09 UK CK 0125

In the Uttarakhand High Court

Case No : Criminal Miscellaneous Application (C-482) No. 881 of 2011

Ganeshi and Others

APPELLANT

Vs

State of Uttarakhand and Others

RESPONDENT

Date of Decision : 22-09-2011

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 313, 482

Citation : (2011) 09 UK CK 0125

Hon'ble Judges : Prafulla C. Pant, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Prafulla C. Pant, J.—Heard.

2. By means of this petition, moved u/s 482 of Code of Criminal Procedure, 1973, (for short Code of Criminal Procedure) the Petitioners have challenged the order dated 26.07.2011, passed by Special Judicial Magistrate, C.B.I., Dehradun, in Criminal Complaint Case No. 427 of 2011 Tara Devi v. Ganeshi and Ors. whereby right to adduce defence evidence of the Petitioners is closed

3. From the record it appears that the trial is pending since 2003. After completion of prosecution evidence statements of the accused u/s 313 of Code of Criminal Procedure, were recorded way-back in the year 2007. Since then defence evidence is not adduced.

4. However, learned Counsel for the Petitioners submitted that in the year 2008, one more prosecution witness was got examined, and No. 3 additional statement of 313 of Code of Criminal Procedure, was recorded in respect of said evidence. Apart from this, it is pointed out that except the five adjournments sought by the defence counsel all other adjournments were either on behalf of the complainant, or on the ground that Presiding Officer was not available etc.

5. In the above circumstances, having considered submissions of learned

Counsel for the Petitioners and in the interest of justice, this petition u/s 482 of Code of Criminal Procedure, is summarily disposed of, directing the trial court to allow the Petitioners to adduce defence the evidence on the next date (29.09.2011) already fixed in the case. It is clarified that if the Petitioners fail to adduce the defence evidence on that day, the trial court shall be at liberty to hear the arguments on the very day and pronounce the judgment.