
(2010) 06 UK CK 0132
In the Uttarakhand High Court

Imran and Others

APPELLANT

Vs

State of Uttaranchal/Uttarakhand and Wazid Ali

RESPONDENT

Date of Decision : 15-06-2010

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Penal Code, 1860 (IPC) — Section 379, 427

Citation : (2010) 06 UK CK 0132

Hon'ble Judges : Prafulla C. Pant, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Prafulla C. Pant, J.—Heard.

2. By means of this petition moved u/s 482 of Code of Criminal Procedure 1973(for short Cr.P.C.) the petitioners have sought quashing of the proceedings of criminal complaint case No. 198 of 2004 Wajid Ali v. Imran and Ors. relating to offences punishable u/s 379/427 I.P.C., pending in the court of Judicial Magistrate, Roorkee, District Haridwar. The petitioners have further challenged the order dated 15.06.2004, passed by Sessions Judge, Haridwar, whereby said court has summarily dismissed the revision against the summoning order passed by the trial court in the aforesaid complaint case.

3. Brief facts of the case are that it is alleged in the criminal complaint filed by respondent No. 2 that vide order dated 10.10.2003, the complainant got possession of some portion of Khasra No. 265 which was included in Khasra No. 271 in the consolidation proceedings. It is further pleaded by the complainant that he had sown the crop of Barseem (fodder for the cattle). It is further alleged that on 22.01.2004, in absence of the complainant, the petitioners committed theft of the crops sown by the complainant.

4. Learned Counsel for the petitioners submitted that vide order dated 10.10.2003, in fact possession of the land in dispute was not delivered to the

complainant, and only measurements were made. Apart from this, it is pleaded that later, on application of the petitioners, the order was recalled. As such, it is contended that the trial court has erred in law in summoning the accused on the allegation that they had taken crops sown by the complainant.

5. Having considered submissions of learned Counsel for the parties and after going through the papers on record, this Court finds that it involves disputed questions of fact as to whether the complainant was actually given possession of the land or not, and whether the complainant had sown crop of BARSEEM or not. The disputed questions of fact cannot be decided by this Court in its jurisdiction u/s 482 of Cr.P.C.

6. Therefore, without expressing any opinion as to the final merits of the case the petition u/s 482 of Cr.P.C., is dismissed with the observation that if the petitioners surrender before court concerned their bail application shall be heard and disposed of without unreasonable delay.