
(2020) 02 UK CK 0023

In the Uttarakhand High Court

Case No : Writ Petition (CRL) No. 714 Of 2019

Jalam Singh Rana

APPELLANT

Vs

State Of Uttarakhand And Others

RESPONDENT

Date of Decision : 14-02-2020

Acts Referred:

Indian Penal Code, 1860 — Section 120B, 420, 467, 468, 471
Code Of Criminal Procedure, 1973 — Section 41, 156(1), 155(2), 173(2), 482
Constitution Of India, 1950 — Article 226

Citation : (2020) 02 UK CK 0023

Hon'ble Judges : Ramesh Ranganathan, CJ; R.C. Khulbe, J

Bench : Division Bench

Advocate : B.S. Bhandari, R.S. Sammal, Saurabh Pandey

Final Decision : Dismissed

Judgement

Ramesh Ranganathan, CJ

1. This Writ Petition is filed, under Article 226 of the Constitution of India, seeking a writ of certiorari to quash the First Information Report lodged by

the third respondent on 11.01.2019 registered as F.I.R. No. 0010 of 2019 punishable under Sections 420, 467, 468, 471 and 120-B I.P.C. at Police

Station-Doiwala, District Dehradun; and for a mandamus directing the first and second respondents not to arrest the petitioner pursuant to the First

Information Report lodged by the third respondent on 11.01.2019 registered as F.I.R. No. 0010 of 2019.

2. Facts, to the limited extent necessary, are that the petitioner is the in-charge Tehsildar of Nainbagh, District Tehri Garhwal. An F.I.R. was lodged

against him wherein it was alleged that one Madan Singh Tomar had submitted his income certificate for less than Rs. 2.50 lakhs per annum; and,

though his income was in fact more than Rs. 2.50 lakhs per annum, a false income certificate had been issued by the petitioner that his income was less than 2.50 lakhs per annum. The petitioner claims that he is cooperating with the Investigating Agency, the investigation is still in progress, and no charge-sheet has been filed till date.

3. An F.I.R. is registered on a complaint containing allegations, and these allegations necessitate investigation. If, after investigation, the Investigating

Officer is satisfied that no case is made out against the accused, Final Report/ Closure Report is filed in the exercise of the powers conferred under

Section 173 (2) of the Code of Criminal Procedure, 1973 (for short the 'Code'). It is only if the Investigating Officer is satisfied that the accused

has committed the offences alleged against him, would a charge-sheet then be filed in respect to such offences.

4. The petitioner seeks quashing of the F.I.R. itself which would prevent an investigation being caused into the matter. While it is true that the High

Court, in the exercise of its jurisdiction either under Section 482 of the Code or under Article 226 of the Constitution of India, can quash an F.I.R.,

exercise of such power is subject to certain well laid down limits. In *State of Haryana and others v. Bhajan Lal and others* : 1992 Supp (1) SCC 335,

the Supreme Court observed as under :

“In the backdrop of the interpretation of the various

relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the

exercise of the extra-ordinary power under Article 226 or the inherent powers Under Section 482 of the Code which we have extracted and

reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of

the process of any Court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and

sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be

exercised.

(1) Where the allegations made in the First Information Report or the complaint, even if they are taken at their face value and accepted in their

entirety do not prima-facie constitute any offence or make out a case against the

accused.

(2) Where the allegations in the First Information Report and other materials, if any, accompanying the F.I.R. do not disclose a cognizable offence,

justifying an investigation by police officers Under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section

155(2) of the Code.

(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the

commission of any offence and make out a case against the accused.

(4) Where, the allegations in the F.I.R. do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is

permitted by a police officer without an order of a Magistrate as contemplated Under Section 155(2) of the Code.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever

reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is

instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing

efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for

wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.

We also give a note of caution to the effect that the power of quashing a criminal proceeding should be exercised very sparingly and with

circumspection and that too in the rarest of rare cases; that the Court will not be justified in embarking upon an enquiry as to the reliability or

genuineness or otherwise of the allegations made in the F.I.R. or the complaint and that the extraordinary or inherent powers do not confer an

arbitrary jurisdiction on the Court to act according to its whim or caprice.

It may be true, as repeatedly pointed out by Mr. Parasaran, that in a given situation, false and vexatious charges of corruption and venality may be

maliciously attributed against any person holding a high office and enjoying a respectable status thereby sullyng his character, injuring his reputation

and exposing him to social ridicule with a view to spite him on account of some personal rancour, predilections and past prejudices of the complaint. In

such a piquant situation, the question is what would be the remedy that would redress the grievance of the verily affected party? The answer would be

that the person who dishonestly makes such false allegations is liable to be proceeded against under the relevant provisions of the Indian Penal Code-

namely Under Sections 182 or 211 or 500 besides becoming liable to be sued for damagesâ?|â?|â??

5. Among the tests laid down in State of Haryana and others v. Bhajan Lal and others : 1992 Supp (1) SCC 335 is that an F.I.R. can be quashed if the

allegations made in the complaint, taken as it is, and accepted as true, do not attract the ingredients of the offence which the petitioner is alleged to

have committed. No such contention has been put forth on behalf of the petitioner.

6. Mr. B.S. Bhandari, learned counsel appearing on behalf of Mr. R.S. Sammal, learned counsel for the petitioner, would only submit that the

allegations made against the petitioner are false; and that the petitioner is not guilty of the offences alleged against him.

7. These are all matters for investigation and are not matters which this Court would examine in proceedings under Section 482 of the Code or under

Article 226 of the Constitution of India.

8. Learned counsel for the petitioner would then state that the petitioner may atleast not be arrested pending investigation. Section 41 of the Code

confers, on the Investigating Officer, the power to arrest without warrant. It is, however, hedged by the conditions stipulated therein. As exercise of

discretion by the Investigating Officer, to effect arrest, is circumscribed by the provisions of Section

41 of the Code, the Investigation Officer can exercise discretion to effect arrest, only if the conditions prescribed therein are satisfied. It would be

wholly inappropriate for this Court, in proceedings under Article 226 of the Constitution of India, to substitute its views for that of the Investigating

Officer.

9. We may not be understood to have held that the petitioner should or should

not be arrested as these are all matters in the discretion of the

Investigating Officer. Suffice it, in such circumstances, to observe that, in case the Investigating Officer is of the view that the petitioner's arrest

is necessary, he shall then effect arrest strictly in accordance with the provisions of the Criminal Procedure Code.

10. Subject to the aforesaid observations, the Writ Petition fails and is, accordingly, dismissed. No costs.