

(2011) 11 UK CK 0041

In the Uttarakhand High Court

Case No : Criminal Miscellaneous Application (C-482) No. 339 of 2010 with Stay
Vacation Application No. 820 of 2010

Jitendar Singh, Arun Singh and Karan Singh

APPELLANT

Vs

State of Uttarakhand and Others

RESPONDENT

Date of Decision : 16-11-2011

Acts Referred:

Constitution of India, 1950 — Article 20
Criminal Procedure Code, 1973 (CrPC) — Section 319, 482
Penal Code, 1860 (IPC) — Section 324, 504, 506

Citation : (2011) 11 UK CK 0041

Hon'ble Judges : Prafulla C. Pant, J

Bench : Single Bench

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. 5233 of 2007 Sameer Chand vs. Jitendar Singh and others, relating to offences punishable u/s 324, 504 and 506 of I.P.C., Police Station Rudrapur, pending in the court of Chief Judicial Magistrate, Rudrapur.

3. Learned counsel for the petitioners submitted that relating to the same incident dated 08.07.2007, respondent no.2 Sameer Chand (complainant) earlier lodged First Information Report No. 1165 of 2007 at police station Gadarpur, on which investigation was done and after completion of investigation charge sheet was filed against petitioner no.1 Jitendar Singh and petitioner no.4 Charan Jeet Singh. It is further pointed out on behalf of the petitioners that now criminal complaint case has been filed in respect of same incident by the same complainant not only the petitioner no.1 Jitendar Singh and petitioner no.4 Charan Jeet Singh, but also petitioner no.2 Arun Singh and petitioner no.3 Karan Veer Singh. All the four were also accused in the First Information Report but no offence is said to have been made out by the Investigation Officer against the

two. It is argued that if the complainant was aggrieved with the report of the police, in the same trial, the complainant can move an application u/s 319 of Cr.P.C., to summon the petitioner no.2 Arun Singh and petitioner no.3 Karan Singh if evidence so requires. But two trials in respect of same incident against the same persons can not be maintained.

4. I agree with the argument advanced on behalf of the petitioners. In the counter affidavit filed on behalf of the respondent no.2, it is not denied that the First Information Report was not lodged by him, and charge sheet was filed in it. Respondents fails to explain as to how the petitioners can be tried twice for the same offence. The subsequent trial is against the spirit contained in clause (2) of Article 20 of Constitution of India.

5. For the reasons as discussed above, the petition u/s 482 of Cr.P.C., is allowed. The proceedings of Criminal Complaint Case No. 5233 of 2007 Sameer Chand vs. Jitendar Singh and others, relating to offences punishable u/s 324, 504 and 506 of I.P.C., Police Station Rudrapur, pending in the court of Chief Judicial Magistrate, Udham Singh Nagar, are hereby quashed. It is clarified that the proceedings relating to criminal case no. 4512 of 2007, shall remain unaffected by this order, without prejudice to the rights of the parties.