

(2011) 12 UK CK 0136

In the Uttarakhand High Court

Case No : Criminal Miscellaneous Application (C-482) No. 1135 of 2011

Khatima Fibers Ltd.

APPELLANT

Vs

State of Uttarakhand

RESPONDENT

Date of Decision : 15-12-2011

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Penal Code, 1860 (IPC) — Section 406, 420

Citation : (2011) 12 UK CK 0136

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 Cr.P.C., the petitioner has sought quashing of proceedings of criminal case no.1342 of 2002 State vs. Deepak Agarwal and others, relating to offences punishable u/s 406, 420 of I.P.C. (arisen out of crime no.747/2001), Police Station Khatima, pending in the court of Judicial Magistrate, Khatima.

3. Learned counsel for the petitioner and learned counsel for the respondent no.2 pleaded before this Court that parties have entered into compromise. It is further submitted that the dispute between the parties basically relates to property due to non-payment of price of material supplied.

4. Learned counsel for the State pointed out that earlier also Criminal Misc. Application No.303 of 2002 was filed on the ground of compromise, as such this petition is not maintainable.

5. However, on going through order dated 26.9.2003 passed by this court in Criminal Misc. Application No.303/2002, this Court finds that said petition was not disposed of on merits, but dismissed as infructuous, as the parties have entered into compromise. Apart from this, the present petition is not filed by the

party which filed the earlier petition. As such, as to the maintainability of this petition, this Court does not find force in the objection.

6. Sri Kumar Gupta, Factory Manager of the petitioner, is present in person in the Court, identified by his counsel, who has submitted that the petitioner does not want to prosecute the respondent no.2, after amicable settlement of the dispute between the parties. A Compounding Application No.1505/2011, supported by the affidavit of Mr. Kumar Gupta, has been moved by the counsel for the petitioner.

7. In the above circumstances, in view of principle of law laid down in Nikhil Merchant Vs. Central Bureau of Investigation and Another, , the petition deserves to be allowed.

8. Accordingly, the petition u/s 482 of Cr.P.C. is allowed. The proceedings of criminal case no.1342 of 2002 State vs. Deepak Agarwal and others, relating to offences punishable u/s 406, 420 of I.P.C. (arisen out of crime no.747/2001), Police Station Khatima, pending in the court of Judicial Magistrate, Khatima, are hereby quashed.