
(2019) 05 UK CK 0282

In the Uttarakhand High Court

Case No : Criminal Miscellaneous Application No. 1343 Of 2016

Kuldeep Kaushik

APPELLANT

Vs

State Of Uttarakhand & Another

RESPONDENT

Date of Decision : 28-05-2019

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 464, 467, 471, 482
Indian Penal Code, 1860 — Section 463

Citation : (2019) 05 UK CK 0282

Hon'ble Judges : Ravindra Maithani, J

Bench : Single Bench

Advocate : Bhupesh Kandpal, Dinesh Chauhan

Final Decision : Dismissed

Judgement

Ravindra Maithani, J

1. Present petition under Section 482 of the Code of Criminal Procedure, 1973 (hereinafter referred to as "the Code") has been filed by the petitioner to quash the summoning order dated 05.01.2016 passed by the learned Judicial Magistrate, Roorkee District Haridwar in Criminal Case No. 07 of 2016, pursuant to the charge sheet dated 05.12.2015 in FIR/Case Crime No. 278 of 2011.

2. According to the FIR, it was revealed that a lease deed was falsely prepared by forging signatures of the District Magistrate, Haridwar. Lease deed was in the name of the Society, through its Chairperson, Kuldeep Kaushik and General Secretary, Alok Kumar. After investigation, charge sheet has been submitted in the case against the petitioner and one more person.

3. Learned counsel for the petitioner would argue that for running educational institution lease had already been granted to the Manav Vikas Charitable Munch (Registered), by the State of Uttarakhand on 19.09.2003 and in accordance with the terms of the lease, the rent was regularly paid by the petitioner. Therefore, there was no need for the petitioner to forge any lease deed. It is also argued

that in the instant case, the provisions of Section 463 I.P.C cannot be invoked because, documents have not been used by the petitioner for his own benefit.

4. In support of his contention, learned counsel has placed reliance upon the principles of law as laid down in the case of Mohammed Ibrahim and others Vs. State of Bihar and another, (2009) 8SCC 751. A reference has been made to para 17, which is as hereunder:

"17. When a document is executed by a person claiming a property which is not his, he is not claiming that he is someone else nor is he claiming that he is authorized by someone else. Therefore, execution of such documents (purporting to convey some property of which he is not the owner) is not execution of a false document as defined under Section 464 of the Code. If what is executed is not a false document, there is no forgery. If there is no forgery, then neither Section 467 nor Section 471 of the Code are attracted."

5. Learned counsel for the State would argue that petitioner and the co-accused forged the lease deed and submitted the same to some authorities for up-gradation of their institution from B.Ed. to M.Ed. Reference has been made to statements of District Magistrate and other witnesses.

6. It is true that a lease was granted to Manav Vikas Charitable Munch (Registered) on 19.09.2003 of a particular land Documents have been referred to, to indicate that the petitioner has been paying rent as per the terms of the lease.

7. Specific case of the State is that lease deed dated 25.02.2010 has been forged by the petitioner and other co-accused. The forged lease deed has been filed alongwith counter affidavit. According to which, lease executed in favour of the Manav Vikas Charitable Munch (Registered) on 19.09.2003 has been changed in the name of the Institute of Progressive Studies and Development (B.Ed.) and Himgiri Educational (B.P. Ed.), on the existing terms and conditions. It is purported to have been signed by the District Magistrate. The case of the prosecution is specific that this lease deed dated 25.02.2010 is forged.

8. The statement of District Magistrate, Haridwar has been referred, who have categorically stated that his signatures are forged on the forged lease deed dated 25.02.2010..

9. It is not a case where some person has executed any sale deed, of which, he is not the owner. The first information report reveals commission of cognizable offence. After investigation, Investigating Officer found it true. It is specific case of the prosecution that in order to upgrade some of its institutions the petitioner & co-accused forged the lease deed. Meticulous examination of the material is not required to be done at this stage. Having considered the matter, this Court is of the view that no interference is warranted in this case and the petition deserves to be dismissed.

10. Learned counsel for the petitioner would argue that a direction may be issued

so that petitioner may be released on bail on the same day, when application for bail is filed.

11. The petition under Section 482 of the Code is dismissed. However, if the petitioner appears before the court below and applies for bail, her bail application may be considered, as expeditiously as possible, in accordance with law.