
(2010) 04 UK CK 0081
In the Uttarakhand High Court

Maj. (Retd.) J.S. Sandhu

APPELLANT

Vs

State of Uttaranchal

RESPONDENT

Date of Decision : 12-04-2010

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Penal Code, 1860 (IPC) — Section 500, 504

Citation : (2010) 1 UD 589

Hon'ble Judges : Prafulla C. Pant, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Prafulla C. Pant, J.—By means of this petition, moved u/s 482 of Code of Criminal Procedure, 1973(for short Cr.P.C), the petitioner has sought quashing of the proceedings of criminal case No. 553 of 2005, Hari Chand Aggarwal v. J.S. Sandhu relating the offences punishable u/s 500, 504 of I.P.C. pending in the court of Chief Judicial Magistrate, Dehradun.

2. Heard learned Counsel for the parties and perused the affidavit and counter affidavit on record.

3. Brief facts of the case are that there is a society known as "Mont Clair Makaan Malik Welfare Society" Mussoorie, which is registered under The Societies Registration Act, 1860. Respondent No. 2/complainant is the President of said society. Petitioner Maj. (Retd.) J.S. Sandhu, was the member of said society. It appears that the petitioner made several complaints to the various administrative authorities relating to working of the society, making allegations against its office bearers. It is pleaded in the present petition that the respondent No. 2/complainant, due to above reasons, filed the impugned criminal complaint, malafide. It is pleaded on behalf of the petitioner that the criminal complaint is counter blast to the complaints made by the petitioner, and is abuse of process of law on the part of the complainant.

4. From the side of the complainant/ respondent No. 2, Shri L.K. Tiwari, learned Counsel, contended that this Court in its jurisdiction u/s 482 of Cr.P.C. cannot go into the factual aspects of the matter or as to the correctness of allegations made in the criminal complaint. He further contended that from the evidence in record the ingredients of the offence for which the petitioner has been summoned, are made out.

5. Impugned order dated 07.09.2005, (copy of which is Annexure 5 to the petition) shows that on the criminal complaint filed by respondent No. 2, the petitioner had been summoned to face trial in respect of an offences punishable u/s 500 and 504 of I.P.C. From the perusal of Annexure 7 to Annexure 17 it is clear that the petitioner Maj.(Retd.) J.S.Sandhu made several complaints to various administrative authorities, including the Sr. Superintendent of Police, District Magistrate, Lokayukta and Registrar Societies, alleging irregularities, being committed by the office bearers of the society of which he was a member. These documents further shows that membership of the petitioner was cancelled on 22.09.2004, by the society. It is stated that in the criminal complaint by the complainant/respondent No. 2, Shri Hari Chand Aggarwal, that the petitioner used filthy language against him and he got insulted and defamed. No time and place has been mentioned in the criminal complaint as to when the incident in question has occurred. Considering the complaints made by the petitioner against the office bearers of the society it appears that the criminal complaint in question is a counter blast to the complaints made by the petitioner to the public authorities, and the same is an abuse of process of law, in the circumstances of the case.

6. For the reasons as discussed above, the proceedings to criminal complaint case in question are liable to be quashed. Accordingly, the proceedings of criminal complaint case No. 553 of 2005 , Hari Chand Aggarwal v. J.S. Sandhu relating to offences punishable u/s 500/504 of I.P.C., pending in the court of Chief Judicial Magistrate, Dehradun, are hereby quashed. The petition u/s 482 of Cr.P.C. stands allowed.

(Stay vacation Application No. 843 of 2006 also stands disposed off).