

(2024) 01 UK CK 0150

In the Uttarakhand High Court

Case No : Criminal Miscellaneous Application (u/s 528) No. 26 Of 2025

Major Chandra Kant Singh (Retd.)

APPELLANT

Vs

State Of Uttarakhand And Others

RESPONDENT

Date of Decision : 08-01-2024

Acts Referred:

Indian Penal Code, 1860 — Section 420, 467, 468, 471
Bharatiya Nagarik Suraksha Sanhita, 2023 — Section 528

Citation : (2024) 01 UK CK 0150

Hon'ble Judges : Pankaj Purohit, J

Bench : Single Bench

Advocate : Birendra Singh Adhikari, Bhaskar Chandra Joshi, Vipul Painuli, Sweta Dobhal, Vikas Guglani

Final Decision : Dismissed

Judgement

Pankaj Purohit, J

1. By means of the present C528 application, the applicant has put to challenge the FIR No.149 of 2023 dated 06.05.2023 under Sections 420, 467, 468

and 471 IPC registered with Police Station Kichcha, District Udham Singh Nagar, Charge-sheet dated 15.01.2024, cognizance/summoning order dated

22.03.2024 passed in Criminal Case No.358 of 2024 (Online Criminal Case No.281 of 2024) and the entire proceedings of aforesaid criminal case.

2. Heard learned counsel for the parties and perused the record.

3. It is contended by learned counsel for the applicant that the applicant is a decorated ex-officer of the army who has left the management of his

agricultural land in Kichcha to his younger brother-Late Chandra Kirti Singh and appointed their common-caretaker/employee one- Nizamuddin as his

power agent. It is further contended by him that the said Nizamuddin sold a

portion of applicant's land on the instructions of his late brother to one-Jaiveer/ Jasveer Singh, whom the applicant had never met. The applicant later on got to know that his late brother has allegedly got executed a power of attorney on 26.04.1983 in the applicant's name, of which he had no knowledge and had never used the said document for any transaction.

4. It is further contended by learned counsel for the applicant that the applicant's brother along with family members of respondent No.3-

complainant were out to grab the other lands of the applicant situated in village Rudrapur Saini, Kichcha, District Udham Singh Nagar. The impugned

FIR and the applicant's name in the charge-sheet has been dragged purely to harass the applicant and to coerce him to give away his property to

the respondent No.3-complainant. He also submitted that an enquiry into the said dispute was done by a Patwari, who is also closely connected to the

respondent No.3-complainant, therefore, the entire proceedings is totally illegal and bad in law.

5. Having heard learned counsel for the applicant and having gone through the entire material available on record, it transpires that prima-facie from

the FIR, the offences alleged against the applicant, are made out and there are various disputed question of facts. This Court while invoking the

jurisdiction under Section 528 of BNSS Act, cannot go into the disputed question of facts as alleged. In order to make out a case for interference

under Section 528 of BNSS Act, the applicant has to satisfy the Court that even if the entirety of the case of the prosecution has taken as true, no

case is made out. But, here this is not a case, therefore, this Court doesn't incline to interfere into the matter.

6. Accordingly, the C528 application is dismissed in-limine.

7. Pending application, if any, stands disposed of.