

(2011) 12 UK CK 0113

In the Uttarakhand High Court

Case No : Criminal Miscellaneous Application No's. 43, 44 and 46 of 2006

Mohan Lal

APPELLANT

Vs

State of Uttarakhand and Others

RESPONDENT

Date of Decision : 09-12-2011

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 156(3)
Negotiable Instruments Act, 1881 (NI) — Section 138
Penal Code, 1860 (IPC) — Section 120B, 147, 148, 323, 384

Citation : (2012) 3 UC 1717

Hon'ble Judges : Servesh Kumar Gupta, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Servesh Kumar Gupta, J.—All these petitions have been filed by petitioner Mohan Lal against private respondents Sharmajeet, Mahboob Khan and Praveen Kumar respectively. It is pertinent to mention that these private respondents instituted cases in the court of Magistrate for the offence u/s 138 of the Negotiable Instruments Act, 1881 against petitioner Mohan Lal and all the three trials were in their fag end of adjudication, then these petitions were filed by Mohan Lal way back in January, 2006 and this Court stayed further proceedings in complaint case No. 847 of 2005, complaint case No. 849 of 2005 and complaint case No. 848 of 2005 pending the court below. Since then proceedings are stayed and pending in the court below. All these petitions could have been taken up today for hearing. These petitions are being heard and adjudicated together because contention of petitioner Mohan Lal in all the three is common. Learned counsel for the petitioner has taken a plea that petitioner had an Account bearing No. 7839 in Indian Overseas Bank at Jawalapur, Haridwar and his cheque book containing blank cheque nos. 823159 to 823175 (in all 17 cheques) was lost somewhere. Petitioner gave information regarding losing of cheque book to his bank(sic), on 10.04.2003. He also sent information to the Senior Superintendent of Police, Haridwar on 19.06.2003. Learned counsel for the petitioner has

contended that these cheques were misused by all the three private respondents including five others against whom he moved application u/s 156(3) Cr.P.C. on 27.11.2003. His First Information Report could be lodged on 25.12.2003 against eight accused persons including aforementioned three private respondents.

2. Investigation was made and chargesheet in crime No. 490 of 2003 was submitted by the police on 27.04.2004 against all the eight accused persons whereupon cognizance was taken by Chief Judicial Magistrate, Haridwar on 14.06.2004. Petitioner has alleged that the incident was of dated 16.06.2003 at 04.00 p.m. when all the accused persons including three private respondents aforementioned came to his house and demanded money from him with a threat that if money is not offered to them, then cheques of petitioner will be misused by forged signature. When petitioner did not succumb to their demand, then all the accused persons hurled abuses, intimidated and insulted him with a threat to kill him. So First Information Report was lodged u/s 147, 148, 120B, 384, 504, 506, 323, 452 IPC and chargesheet was submitted under Sections mentioned above except Section 148 IPC. It is very significant and meticulous to be noted that the cognizance in all the cases filed u/s 138 of the Negotiable Instruments Act was taken on 04.09.2003, 15.11.2003 and 22.10.2003 respectively while petitioner moved application u/s 156(3) Cr.P.C. on 27.11.2003, that too showing the incident to be happened five and half months earlier i.e. on 16.06.2003. Obviously, this application appears to have been designed, as an afterthought and the facts stated therein do not inspire confidence at all. The facts, as (sic) in the application moved by petitioner on 27.11.2003, renders reflection of farce, fictitiousness and fallaciousness, just as a counter blast of all the Negotiable Instruments Act cases launched against petitioner by these private respondents. So all these petitions have no merits and liable to be dismissed. All these petitions are dismissed. Let the information be sent to the court below to proceed ahead with the complaint cases, mentioned as above and decide the same as expeditiously as possible.