

(2021) 02 UK CK 0034

In the Uttarakhand High Court

Case No : Writ Petition (Criminal) No. 100 Of 2021

Mohd. Mustqeen Siddiqui Alias Raju

APPELLANT

Vs

State Of Uttarakhand And Others

RESPONDENT

Date of Decision : 19-02-2021

Acts Referred:

Indian Penal Code, 1860 — Section 186, 323, 332, 353, 504, 506
Code Of Criminal Procedure, 1973 — Section 156 (3)
Constitution Of India, 1950 — Article 226

Citation : (2021) 02 UK CK 0034

Hon'ble Judges : Ravindra Maithani, J

Bench : Single Bench

Advocate : Akshay Pradhan, J.S. Virk, Rohit Dhyani

Final Decision : Disposed Of

Judgement

Ravindra Maithani, J

1. Instant writ petition has been filed for quashing of an FIR No.0800 of 2020, under Sections 332, 353, 323, 186, 504 and 506 of IPC, registered at

Police Station Manglour, District Haridwar.

2. FIR in the instant case, was lodged by respondent no.3 on 23.11.2020, who is an employee of Nagar Palika Manglour, District Haridwar. According

to it, on 21.11.2020, at 10:50 in the morning, when the informant was approaching to his office to attend the duty along with records, the petitioner,

who was present in the Nagar Palika premises started abusing him; he caught the informant by his collar and started beating; the petitioner also

threatened the informant; he snatched the bag which had official records. The FIR also records that a few days ago to the incident the petitioner had

earlier also threatened the informant and abused him. According to the FIR, the

entire incident is recorded in the CCTV camera.

3. The learned counsel for the petitioner argued that in fact, on 17.11.2020, petitioner's brother Faheem had visited the Nagar Palika to collect

certain documents, which were in the custody of the informant; the informant denied to give the documents and demanded Rs. 500/- bribe. The bribe

was denied to pay by Faheem and he informed it to the petitioner. The petitioner telephonically requested the informant to deliver the documents, but

he denied. Thereafter, the petitioner complained against the informant to his officers. It is argued that on 21.11.2020, when the petitioner again visited

Nagar Palika, Manglour, District Haridwar, the informant along with his associates stopped him from entering inside the premises, abused and beaten

him. When the wife of the petitioner came for rescue she was also misbehaved.

4. Learned counsel for the petitioner argued that on the same date a report was given by the petitioner to the police, but no action was taken and an

application under Section 156(3) of the Code of Criminal Procedure, 1973, filed by the petitioner has also been rejected by the court below, which is

challenged in the High Court. It is argued that it's a false case.

5. This is the petition under Article 226 of the Constitution of India. In case FIR discloses commission of offence, generally no interference is

warranted. On behalf of the petitioner, it is argued that, in fact, it is the informant who has committed the offence. Arguments suggest a cross case.

But, the FIR in the instant case is categorical as to what had happened. It discloses commission of offence. It also records that the incident is

captured in CCTV Camera.

6. What is the truthfulness and credibility of the averments is a matter for investigation. The matter definitely requires investigation, therefore, no

interference is warranted.

7. It is submitted by the learned counsel for the petitioner that the petitioner apprehends that he may be arrested in a routine and mechanical manner.

8. Needless to say, arrest is not a mechanical act of the Investigating Officer. First and foremost, he has to ascertain the complicity of a person in the

offence and thereafter, to weigh in his mind the need for arrest. This Court has no doubt that the Investigating Officer, in the instant case, shall also

follow the law on the subject of arrest, if any occasion to arrest arises in the instant case.

9. With the above observations, the instant writ petition stands disposed of.