

**(2011) 07 UK CK 0168**

**In the Uttarakhand High Court**

**Case No :** Criminal Miscellaneous Application No. 1006 of 2006

Namman Channa and Another

APPELLANT

Vs

State of Uttaranchal and Another

RESPONDENT

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**Date of Decision :** 28-07-2011

**Acts Referred:**

Criminal Procedure Code, 1973 (CrPC) — Section 200, 202, 482  
Penal Code, 1860 (IPC) — Section 323, 324, 506

**Citation :** (2011) 07 UK CK 0168

**Hon'ble Judges :** Servesch Kumar Gupta, J

**Bench :** Single Bench

**Final Decision :** Allowed

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## **Judgement**

Servesch Kumar Gupta, J.—By way of this criminal miscellaneous application, moved u/s 482 CrPC, the applicants have challenged the order of cognizance dated 7.11.2005, passed by the Civil Judge(J.D.)/Judicial Magistrate, Roorkee in Complaint Case No. 650/2005, whereby the applicants have been summoned to face the trial for the offence punishable u/s 323, 324 & 506 IPC.

2. It would be pertinent to mention here that these applicants were also made accused by one Harish Kakker, complainant/Respondent No. 2 in C482 No. 550/2005 & C482 No. 598/2005, which have been decided in favour of the applicants and against the complainant by common judgment and order of date passed by this Court. Harish Kakker and Anil Kumar, complainant/Respondent No. 2 in the instant case are business partners. It appears that when the operation and effect of cognizance order dated 2.8.2005 issued on the complaint of Harish Kakker, was stayed by this Court in aforesaid criminal miscellaneous applications, Mr. Anil Kumar lodged this complaint before the Judicial Magistrate, Roorkee against the applicants with similar allegations as made in Criminal Complaint Case No. 178/2005 filed before the CJM, Haridwar.

3. In the aforesaid backdrop, learned Counsel for the applicants and learned State Counsel advanced their arguments. Heard them and also perused the

materials on record.

4. Briefly put, the facts of the case are that Respondent No. 2 Anil Kumar filed a complaint before the Magistrate Court alleging that on 2.10.2005, at about 5.30 pm, when he along with his companion Sunil Kumar were coming from Jhabrera to Roorkee, a white Maruti Car bearing registration No. HR-26-J-0146 came from behind and hit them and they fell down. As soon as they fell down, the accused applicants came out from the said car and started beating them with slaps and fists. Co-accused Deshraj and applicant Rohit Arora caught hold of Respondent No. 2 and at the same time, applicant Naman Channa whipped out a knife and gave blow with the same in his stomach. Rohit Arora robbed Rs. 250/- from the pocket of the complainant. He also snatched the golden chain from the neck. The complainant approached the police, but when no action was taken by the police, then he lodged this complaint before the Magistrate on 20.10.2005.

5. Learned Magistrate, after recording the statement of the complainant u/s 200 Code of Criminal Procedure and the statement of the witness Sunil Kumar (companion of the complainant) u/s 202 CrPC, passed the cognizance order and summoned the accused applicants, as stated above.

6. As stated above, the complainant Anil Kumar and his companion (witness) Sunil Kumar are closed associates and are business partners of Harish Kakker and they are engaged in the business of property dealing. They are having personal enmity with the applicants and their relatives.

7. In view of the above background of the matter, the averments made in the complaint and statements recorded u/s 200 & 202 CrPC, do not inspire confidence and the whole story appears to have been cooked up to falsely implicate the applicants and his relatives in order to create pressure and force them to execute inappropriate business dealings. As stated above, C482 No. 550/2005 & C482 No. 598/2005, filed against Harish Kakker, complainant/ Respondent No. 2 in those petitions, wherein the present applicants are also the accused, have been allowed today and the cognizance order, impugned in those petitions, has been quashed.

8. In view of the above, the present criminal miscellaneous application is also liable to be allowed. The same is hereby allowed. Consequently, the impugned cognizance order dated 7.11.2005, passed by the Civil Judge(J.D.)/Judicial Magistrate, Roorkee in Complaint Case No. 650/2005 and the entire proceedings subsequent thereto are hereby quashed.