
(2018) 05 UK CK 0069

In the Uttarakhand High Court

Case No : Criminal Writ Petition No.846 of 2018

NAUSHAD AND OTHERS

APPELLANT

Vs

STATE OF UTTARAKHAND AND OTHERS

RESPONDENT

Date of Decision : 15-05-2018

Acts Referred:

Indian Penal Code, 1860 — Section 379

Citation : (2018) 05 UK CK 0069

Hon'ble Judges : V.K. BIST, J

Bench : Single Bench

Advocate : Syed Nadim, Bhupendra Prasad, P.S. Bohra, Geeta Parihar

Final Decision : Dismissed

Judgement

1. Present writ petition has been filed for the following reliefs:-

I.) Issue a writ, order or direction in the nature of certiorari quashing the First Information

Report lodged by respondent no.3 on 11.07.2017 registered as FIR No.175 of 2017 for the offences punishable U/s 379 of IPC, Police Station

Doiwala, District Dehradun (Annexure No.1 to the writ petition).

II.) Issue a writ, order or direction in the nature of mandamus directing the respondent nos.1 & 2 not to arrest the petitioner in pursuance to the First

Information Report lodged by respondent no.3 on 11.07.2017 registered as FIR No.175 of 2017 for the offences punishable U/s 379 of IPC, Police

Station Doiwala, District Dehradun (Annexure No.1 to the writ petition); otherwise the petitioners shall suffer irreparable loss and injury.

2. Respondent no.3 got lodged an FIR alleging therein that on 05.07.2017, after loading the grocery goods of Reliance Retail Limited from Gurgaon in

Truck

No.NL0101392 the driver Rajneesh Kumar was sent to Dehradun. On 07.07.2017 the driver of the truck, stopped the truck in front of Harrawala

Petrol Pump, Dehradun and has slept. When he awoke in the in morning, he found the cover of the truck opened from back side. The complainant

checked the items and found 184 items missing.Â

3. Learned counsel for the petitioner submits that petitioner has falsely been implicated in the instant case. He submits that petitioners are not named

in the FIR. He submits that from the perusal of the FIR no case under Section 379 IPC is made out against the petitioners. He submits that on the

basis of the FIR, Police is trying and willing to arrest the petitioners without any fault and in case petitioners are arrested, it would certainly mental and

physical hardship to the petitioners.Â Â Â

4. The Honâ??ble Apex Court, in the case of State of West Bengal. Vs. Swapna Kumar, 1982 (1) SCC 561, has held that if an offence is disclosed,

Court will not normally interfere with the investigation into the case, and will permit investigation into the offence alleged to be completed. If the FIR,

prima facie, discloses the commission of an offence, the Court does not normally stop the investigation, for, to do so would be to trench upon the

lawful power of the police to investigate into cognizable offences.Â Â

5. I have considered the submissions of learned counsel for the parties and have gone through the contents of the F.I.R. It cannot be said that from

the reading of the FIR no offence is made out. Whether the facts mentioned in the F.I.R are correct or not, is a matter of investigation. In my opinion

it is not a fit case where the Court should intervene. It is for the Investigating Officer either to file final report or charge sheet in the matter.Â

6. The writ petition is dismissed.Â

7. Learned counsel for the petitioners then prayed that in case offence is made out against the petitioners, in that event, the petitioners will surrender

before the Court concerned and will move the bail application and the Court concerned may be directed to decide their bail application expeditiously.

In my view, every bail application should be considered and decided by the learned Court below without any unreasonable delay; but, needless to say

that it should be decided strictly in accordance with law. Considering the submission of learned counsel for the petitioners, it is observed that in case

petitioners surrender and move bail application, the same shall be decided by the concerned Court very expeditiously, in accordance with law.Â

8. Let certified copy of this order be supplied to the counsel for the parties today itself on payment of usual charges.Â