
(2021) 08 UK CK 0384

In the Uttarakhand High Court

Case No : Criminal Miscellaneous Application (C482) No. 822 Of 2018 (U/s 482 Cr.P.C.)

Neelima Jain

APPELLANT

Vs

State Of Uttarakhand And Another

RESPONDENT

Date of Decision : 26-08-2021

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 155(2), 156(1), 482

Citation : (2021) 08 UK CK 0384

Hon'ble Judges : R.C. Khulbe, J

Bench : Single Bench

Advocate : Arvind Vashistha, Siddhartha Bisht, Abhishek Verma

Final Decision : Allowed

Judgement

R.C. Khulbe, J

1. This application is filed under Section 482 Cr.P.C. seeking to quash the entire proceedings of Criminal Case No.358 of 2018, State v. Manoj Jain

and others, pending in the Court of CJM, Haridwar.

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

3. From the record, it appears that an FIR was lodged on 20.01.2017 with P.S. SIDCUL, District Haridwar against one Manoj Jain (applicant's

husband). It is alleged in the FIR that a Company "Ultimate Flexipack Limited" was running at SIDCUL, Haridwar which was engaged in

manufacturing of Polyethylene Film and Metallised Film. It is the only Company in India which runs such type of business. It is stated in the FIR that

some important documents were handed over to Mr. Manoj Jain, who was holding the post of D.G.M. in the said Company. The allegation against him

is that he leaked the technique of the Film manufacturing to some rival company.

4. From a perusal of the evidence collected during investigation, it is prima facie clear that the accused Manoj Jain who was the D.G.M. in the

Company had received some confidential documents regarding the technique of manufacturing of the Polythylene Film and Metallised Film, and he

made available those documents to some other rival Company, as also revealed the technique without the permission of the Company.

5. Admittedly, the applicant is the wife of accused Manoj Jain. Neither any document was received by her nor she was the employee in the

informant's Company namely 'Ultimate Flexipack Limited'.

6. Even if any information was leaked by accused Manoj Jain to his wife (present applicant), it was not the mistake on the part of the present

applicant for receiving any information from her husband. There is no prima facie evidence on record that the applicant handed over any document to

any rival company or leaked the technique of preparation of Polythelyne & Metallised Film qua Ultimate Flexipack Limited.

7. Moreover, the Hon'ble Supreme Court in the case of State of Haryana and others v. Bhajan Lal & others, reported in 1992 Supp (1) SCC

335, have considered, in detail, the provisions of Section 482 Cr.P.C., and the power of the High Court to quash criminal proceedings or FIR. The

Hon'ble Supreme Court summarized the legal position by laying the following guidelines to be followed by High Courts in exercise of their inherent

powers to quash a criminal complaint: -

1. 'Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in

their entirety do not prima facie constitute any offence or make out a case against the accused.

2. Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable

offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the

purview of Section 155(2) of the Code.

3. Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the

commission of any offence and make out a case against the accused.

4. Where the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is

permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

5. Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which, no prudent person

can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

6. Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal

proceeding is instituted) to the institution and continuance of the proceedings and/or, where there is a specific provision in the Code or the

concerned Act, providing efficacious redress for the grievance of the aggrieved party.

7. Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior

motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.

8. Considering the facts of the present case and in light of the aforesaid judgment, I am of the view that no "prima facie" case is made out

against the applicant.

9. Accordingly, the present application filed u/s 482 Cr.P.C. is liable to be allowed. The same is thus, allowed and the entire proceedings pending

before the Court below, qua the applicant, are quashed.

10. It is clarified that the Trial Court is free to proceed with the trial regarding other accused without being influenced by any of the observations made

in the body of this order.