
(2011) 09 UK CK 0014

In the Uttarakhand High Court

Case No : Criminal Miscellaneous Application No"s. 530 of 2007 and 130 of 2005

Netra Singh@Nem Singh

APPELLANT

Vs

State of Uttarakhand and Another
 Yusuf and Others
Vs State of Uttaranchal

RESPONDENT

Date of Decision : 07-09-2011

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482

Forest Act, 1927 — Section 23, 26

Penal Code, 1860 (IPC) — Section 120B, 379, 411

Uttar Pradesh Transit of Timber and other Forest Produce Rules, 1978 — Rule 28, 3

Citation : (2011) 09 UK CK 0014

Hon'ble Judges : Servesch Kumar Gupta, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Servesch Kumar Gupta, J.—Counter affidavit filed today in the Court in petition No. 530/2007 on behalf of the State is kept with the records.

2. Sri Ajay Veer Pundir, Advocate is present on behalf of applicant-Netra Singh @ Nem Singh in petition No. 530/2007 and Sri P.S. Bohra, Brief Holder for the State is also present.

3. There is No. representation on behalf of the applicants in petition No. 130/2005, though they have sufficiently been served and once Vakalatnama was filed on their behalf by Sri Gopal K. Verma, Advocate but he has not turned up to argue the matter either today or on the last date, while his name appears in the list.

4. Both the cases arise out of the same FIR lodged on dated 24.7.2004 wherein the chargesheet No. 34/2004 was submitted against the accused Yusuf, Shamshad and Munna, which was registered as a criminal case No. 4832 of 2004 while additional chargesheet No. 34-A/2004 was submitted against Netra Singh, who was Van Daroga at the relevant time of crime posted in the forest range

Shyampur, District Haridwar. Both the charge sheets pertain to crime No. 33/2004 of P.S. Shyampur, District Haridwar, so hearing of the learned Counsel on behalf of applicant Netra Singh has exposed the entire facts before this Court. Therefore, it is in the fitness of things and for the ends of justice that both these petitions are disposed of by this common order.

5. Having heard the learned Counsel of the applicant Netra Singh and the learned brief holder, it appears that on 24.7.2004, the forest produce was being transported from the forest of Shyampur range on the strength of some Ravanna (authority letter issued by the accused Netra Singh in his official capacity as Van Daroga) and the same was loaded in two Trucks bearing No. UTS-1410 and UAB-4068 by the accused persons, who have been named in chargesheet No. 34/2004. When the trucks came out from the forest territory, these were intercepted by the police of Shyampur police station and it was found that the forest produce, so transported, was not strictly in accordance with the contents mentioned in the Permit issued by the applicant Netra Singh. So, both the trucks were brought to the territory of police station and were unloaded there.

6. The first information report was lodged, matter was investigated and the chargesheet was submitted against all the accused persons, as stated above for the offence of Sections 379/411 Indian Penal Code r/w Section 26/23 Forest Act and Rule 3/28 of U.P. Transit of Timber and other Forest Produce Rules, 1978.

7. Learned Counsel on behalf of applicant Netra Singh drew the attention of the Court towards the letter written by Sri H.K. Singh, District Forest Officer, Haridwar Range addressed to Senior Superintendent of Police, Haridwar dated 28.7.2004. This letter pertains to the same crime No. 33/2004 which was bearing on the impugned FIR dated 24.7.2004. The Forest Officer has addressed the Senior Superintendent of Police that the produce was being transported as per the government instructions, which were issued in pursuance of the amendment incorporated in the Indian Forest Act. This amendment deals with the transportation of the roots of trees which are heaped in the forest, through digging and cleanliness of the same.

8. Learned Counsel has further drawn the attention of the Court towards the contents of the letter indicating that the wood lying in the police station precincts have been watched and the same have been found to be of eucalyptus and Coocat species. The forest officer has also mentioned that the work has been done as per the Rules.

9. On the other hand, learned brief holder has drawn the attention of this Court that the Permit was issued only to transport the roots and other parts of the tree of eucalyptus and that too in certain quantity but the woods which were recovered from the Trucks, were of Coocat, Amaltash Dante, Nisoda and other wood logs, in addition to eucalyptus. The forest range officer in his letter dated 28.7.2004 has nowhere mentioned that he personally had inspected the recovered woods and found the same in accordance with the terms of the Permit.

10. It has been argued on behalf of the applicant Netra Singh that he has been charge-sheeted for the offence of Sections 379/411 Indian Penal Code but No. such stolen wood was recovered from his possession. This argument is baseless, inasmuch as, allegedly the recovered wood was stolen with the conspiracy of Netra Singh and the same offence can be read supplementing Section 120-B Indian Penal Code and this task can be done by the court itself.

11. Learned brief holder has also argued that the Permit issued by Netra Singh was not completely filled up, inasmuch as, so many columns therein were kept blank and this apparently was done with the collusion of the other accused persons in order to fill up the same, as and when need arises, outside the forest precincts.

12. Applicant Netra Singh was bound not only to fill up the requisite columns of the permit but was also required to ensure in his personal supervision the transit of wood in accordance with the terms and conditions of the Permit as well as the provisions of the Forest Act, as amended by the Government. The purpose of Section 482 Code of Criminal Procedure is not to scrutinize every aspect meticulously and even the minutest detail of the entire incident but to see prima facie whether any irregularity or abuse of the process of law apparent on the perusal of the record.

13. Having perused the entire records, the FIR, chargesheets, counter affidavit and after hearing the pros and cons of both the petitions, this Court is of the view that there is No. ground to quash the chargesheets, as above, and the trial should not be allowed to be hampered by this Court any further and accordingly, the Court is not inclined to quash the proceedings pending before the court below at this stage.

14. In view of what has been stated above, both the petitions are bereft of merit and liable to be dismissed. Accordingly, both the petitions are dismissed. Interim order dated 11.3.2005 passed by the Court in C482 petition No. 130/05 is vacated. Let the information be sent to the court below for proceeding with the trial as per law.