
(2010) 07 UK CK 0109
In the Uttarakhand High Court

Pramod Khana

APPELLANT

Vs

State of Uttaranchal/Uttarakhand and Sri Baldev Krishan
Behal

RESPONDENT

Date of Decision : 27-07-2010

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 200, 482
Penal Code, 1860 (IPC) — Section 120B, 420

Citation : (2010) 2 UC 1333

Hon'ble Judges : B.C.Kandpal, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

B.C. Kandpal, J.—By means of this petition, moved u/s 482 Cr.P.C., the petitioner has sought quashing of the proceedings of Complaint Case Nos. 1730 of 2004, Baldev Krishan Bahel v. Bir Jung Bahardur Shahi and Ors. relating to offences punishable under Sections 420, 120B of I.P.C., pending in the court of Judicial Magistrate 1st Class, Dehradun.

2. Brief facts of the case are that respondent No. 2 - Baldev Krishan Behal filed a complaint before the Judicial Magistrate 1st Class, Dehradun against the petitioners and others. The learned Magistrate after recording the statement of the complainant u/s 200 Cr.P.C., took cognizance against the applicants vide order dated 01.04.2004. Feeling aggrieved by the aforesaid summoning order, the applicant has preferred this petition before this Court for quashing the same.

3. Heard Sri Arvind Vashisth, Advocate for the applicant, Sri S.S. Adhikari, learned A.G.A. for the State/respondent No. 1, Sri Ramji Srivastava, Advocate for the respondent No. 2 and perused the record.

4. Learned Counsel for the applicant has submitted before the Court that the learned Magistrate has committed error while summoning the applicant as the dispute is purely of civil nature. He has further submitted that no case is made

out punishable under Sections 420, 120B of I.P.C. against the applicant. The allegations made in the complaint are general in nature and no specific role is assigned to the applicant.

5. On the other hand, Sri Ramji Srivastava, learned Counsel for the respondent No. 2 has submitted that it is a case of forgery, which has been committed by the applicant. He has further submitted that respondent No. 2 had already paid the entire sale consideration to Bir Jang Bahadur on 01.11.1990, but another person, namely - Subhash Sharma did not execute the sale deed in his favour. He has further submitted that the averments made in the complaint itself make out the prima facie case for the offences alleged therein against the petitioner. Learned Counsel for the respondent has also submitted that this Court in the similar matters in C482 No. 116 of 2005 and C482 No. 18 of 2005 has dismissed the petitions vide order dated 28.06.2010.

6. Having considered the arguments advanced by learned Counsel for the parties, I am of the view that prima facie case for the offences alleged in the complaint is made out at this stage and the trial court has not committed any error in passing the summoning order. Although, the powers of the High Court u/s 482 Cr.P.C. are very wide and the very plentitude of the power requires great caution in its exercise. This Court must be careful to see that its decision in exercise of the power is based on sound principles. The inherent power should not be exercised to stifle a legitimate prosecution. The High Court being the highest Court of the State should normally refrain from giving a prima facie decision in the case where the entire facts are incomplete and hazy, more so when the evidence has not been collected and produced before the Court and the issues involved, whether factual or legal, are of magnitude and cannot be seen in their true perspective without sufficient material. Any decision to be rendered by this Court would amount to pre-trial of the case. The evidence is yet to be concluded by the trial judge and whatever the defence, the petitioners intend to advance at this stage may adduce before the Trial Judge who shall decide the matter after perusing the entire material available before him on merits.

7. I do not find any ground to interfere in the criminal proceedings which are pending before the court below at this stage. I also do not find any abuse of process of court in the impugned order as well as in the criminal proceedings which is pending before the court below. The petition lacks merit and is liable to be dismissed.

8. Accordingly, the petition u/s 482 Cr.P.C. is dismissed.

9. Consequently, the stay order dated 05.09.2005 passed by this Court stands vacated.