
(2010) 06 UK CK 0219
In the Uttarakhand High Court

Prem Batta and Lakshit Batta

APPELLANT

Vs

State of Uttarakhand and Jai Singh

RESPONDENT

Date of Decision : 11-06-2010

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 156, 482
Penal Code, 1860 (IPC) — Section 3, 307, 384, 504, 506
Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 —
Section 3

Citation : (2010) 06 UK CK 0219

Hon'ble Judges : Prafulla C. Pant, J

Bench : Single Bench

Judgement

Prafulla C. Pant, J.—Heard.

2. By means of this petition moved u/s 482 of Code of Criminal Procedure, 1973 (for short Cr.P.C) the petitioners have sought quashing of the proceedings of criminal case No. 5818 of 2010 (old No. Misc. M 239 of 2009, 2598 of 2008 & 32 of 2007) State v. Prem Chand and Ors. relating to offences punishable u/s 384, 504, 506 I.P.C, and one punishable u/s 3(1)(x) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, pending in the court of Additional Chief Judicial Magistrate, III, Dehradun.

3. Learned Counsel for the petitioners pointed out that on 15.05.2003, Ram Murti Batta (brother of the applicant No. 1) lodged a first information report, relating to offence punishable u/s 307 I.P.C., with police outpost Patel Nagar, Police Station Kotwali, Dehradun, against unknown persons after his brother was fired at and wounded. It appears that after investigating, a charge sheet was filed against five persons in said case on 20.07.2006, which included name of respondent No. 2 Jai Singh. It is pleaded on behalf of the petitioners that as a counter blast Jai Singh, accused of said case, implicating petitioner No. 1 Prem Batta (injured of the aforesaid case), petitioner No. 2 Lakshit Batta (eyewitness of the aforesaid case) and Pratap Singh Parwana, moved an application u/s

156(3) of Cr.P.C., on the basis of which impugned criminal proceedings were initiated. It is further pleaded that it is abuse of process of law on the part of the complainant to implicate the three (including the petitioners) in the impugned criminal proceedings. It is also pointed out that after investigation, the Investigating Officer reported that no offence was made out, and final report was submitted. The trial court has summoned the petitioners and Pratap Singh Parwana on the protest petition, moved by respondent No. 2.

4. Admit the petition.

5. Learned Brief Holder for the State prays for and is allowed six weeks" time to file the counter affidavit.

6. Issue notices to respondent No. 2 Jai Singh, who may file his counter affidavit, within a period of six weeks.

7. Meanwhile, as an interim measure, in the above circumstances, it is directed that further proceedings of criminal case No. 5818 of 2010 (old No. Misc. M 239 of 2009, 2598 of 2008 & 32 of 2007) State v. Prem Chand and Ors. relating to offences punishable u/s 384, 504, 506 I.P.C, and one punishable u/s 3(1)(x) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, pending in the court of Additional Chief Judicial Magistrate, III, Dehradun, shall remain stayed until further orders of this Court.

8. List this petition after six weeks.