
(2011) 08 UK CK 0144

In the Uttarakhand High Court

Case No : Criminal Miscellaneous Application (C-482) No. 1189 of 2010

Prem Chand

APPELLANT

Vs

State of Uttarakhand and Shri Changa

RESPONDENT

Date of Decision : 08-08-2011

Acts Referred:

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

Citation : (2011) 08 UK CK 0144

Hon'ble Judges : Prafulla C. Pant, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Prafulla C. Pant, J.—Heard.

2. By means of this petition moved u/s 482 of Code of Criminal Procedure, 1973 (for short Code of Criminal Procedure), the Petitioner has sought quashing of the proceedings of criminal case No. 664 of 2008, State v. Seva Ram and Ors., relating to offence punishable u/s 420 I.P.C, P.S. Jwalapur, District Haridwar.

3. Notices were issued to the Respondent No. 2 thrice, but No. one has turned up on behalf of Respondent No. 2 Changa.

4. Learned Counsel for the Petitioner submitted that registered agreements of sale were executed in March 2006, by mother of the Respondent No. 2, and uncle of Respondent No. 2 to sell the land in question to the Petitioner. Copies of said registered agreements are annexed as Annex. 4 to the petition. It is further pointed out that a suit No. 103 of 2006, was filed by one Seva Ram, and present Petitioner for specific performance of contracts in the year 2006. In said suit it was admitted by Smt. Sukkhi (mother of Respondent No. 2) that the amount was received by her as consideration for sale of the land. Copies of said documents are annexed as Annex. 5 and 6 to the petition. Annex. 8 shows that amount of Rs. 5,50,000/-were deposited on 06.03.2006, in the account of Smt. Sukkhi

(natural guardian and mother of Respondent No. 2), and Rs. 2,50,000/- were deposited in the account of Phool Singh in the Syndicate Bank.

5. All above pleas are factual in nature which cannot be examined by this Court in its jurisdiction u/s 482 Code of Criminal Procedure. It is desirable that such pleas be examined by the trial court, if raised, after recording evidence in the case.

6. Having considered submissions of learned Counsel for the Petitioner, and learned Counsel for the State, and after going through the papers on record, this Court is not inclined to interfere with the trial of the case.

7. Therefore, without expressing any opinion as to final merits of the case, the petition u/s 482 Code of Criminal Procedure, is dismissed with the observation that if the Petitioner Prem Chand surrenders before the court concerned his bail application shall be heard, and disposed of without unreasonable delay. (Stay application No. 1404 of 2010, also stands disposed of).