
(2020) 08 UK CK 0041

In the Uttarakhand High Court

Case No : Criminal Miscellaneous Application No. 179 Of 2014

Principal Secretary And Another

APPELLANT

Vs

State Of Uttarakhand And Others

RESPONDENT

Date of Decision : 21-08-2020

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 358, 482
Indian Penal Code, 1860 — Section 376

Citation : (2020) 08 UK CK 0041

Hon'ble Judges : Ravindra Maithani, J

Bench : Single Bench

Advocate : Pratiroop Pandey, Lokendra Dobhal

Final Decision : Allowed

Judgement

Ravindra Maithani, J

1. Instant petition has been filed under Section 482 of the Code of Criminal Procedure, 1973 (for short "the Code") challenging the order dated

18.12.2013 passed in Misc. Case No. 26 of 2013 (for short "the misc. case"), State Vs. Principal Secretary Social Welfare Department,

Government of Uttarakhand, Secretariat Dehradun. Whereby a cost of Rs.2 lakh, as compensation, has been imposed by the court. The cost has been

ordered to be paid to the accused in the Sessions Trial.

2. Heard learned counsel for the parties through video conferencing.

3. The record reveals that the private respondent Dinesh Lal was put to trial in the Sessions Trial No.32 of 2013, State Vs. Dinesh Lal, in the court of

District and Sessions Judge Tehri-Garhwal ("the Sessions Trial") for offence punishable under Section 376 IPC. By the judgment and order dated

13.11.2013, he was acquitted of the charge. But, the Court observed that notices be sent to the Principal Secretary Social Welfare Department,

Government of Uttarakhand, Secretariat Dehradun(petitioner No. 1) as to why compensation be not awarded to the accused in the Sessions Trial

under Section 358 of the Code and the separate misc case was lodged.

4. The misc. case was listed for hearing on 18.12.2013. On that date, on behalf of petitioner No. 1, neither any representation was made, nor was any

cause shown. The Court considering the matter imposed a cost of Rs.2 lakh and further directed that the cost should be paid to the accused as

compensation. It is impugned herein.

5. A similar controversy has been decided by this Court in Criminal Misc. Application No. 67 of 2014, State of Uttarakhand Vs. State of Uttarakhand,

in that case, the Investigating Officer as well as the State of Uttarakhand was required to show cause, as to why compensation be not paid. The Court

passed the following order:-

18. This Court considers that Investigating Officer of the case as well as the State of Uttarakhand should be afforded an opportunity of hearing.

They should file their response to the show cause notice issued in the case before the court concerned and learned court may thereafter pass an order

in view of settled law on the subject.

19. The petition is allowed.

20. Impugned order dated 02.01.2014 passed in Misc. Case No. 32 of 2013, State Vs. Mohd. Akram and others, by the court of learned District and

Sessions Judge, Tehri Garhwal is set aside. The matter is remanded back to the court below.

21. The DGP Uttarakhand shall show cause as to why compensation be not paid to the accused of the case, before the court concerned, within four

weeks from today.

22. Petitioner no.2 Mohd. Akram, Sub Inspector shall also show cause to the notice issued to him in the case, within four weeks, to the court

concerned.

23. The Court requests the learned court below to consider the cause shown by the DGP, State of Uttarakhand as well as the petitioner no.2 Mohd.

Akram and proceed to decide the case in accordance with law as expeditiously as

possible.

24. Let a copy of this judgment be also sent to the learned court below immediately.â??

6. In the instant case, the question of law is one and the same, therefore, this Court is of the view that petitioner no. 1 should be afforded an

opportunity of hearing. Objections shall be filed by petitioner no. 1 to the show cause notice issued in the Sessions Trial, before the Court concerned

and the learned court may thereafter pass an order, in view of the settled law on the subject.

7. The instant petition is allowed.

8. Impugned order dated 18.12.2013 passed in the misc. case is set aside. The matter is remanded back to the learned court below. The petitioner no.

1 shall show cause as to why compensation be not paid to the accused of the Sessions Trial, before the court concerned, within four weeks from

today.

9. This Court requests the learned court below to consider the cause shown by the petitioner no. 1 and proceed to decide the misc. case, in

accordance with law as expeditiously as possible.