

**(2011) 02 UK CK 0082**

**In the Uttarakhand High Court**

**Case No : Criminal Writ Petition No. 97 of 2011**

Raj Kumar and Mahabir Singh

APPELLANT

Vs

State of Uttarakhand and Mukesh Kumar

RESPONDENT

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**Date of Decision : 15-02-2011**

**Acts Referred:**

Constitution of India, 1950 — Article 226  
Penal Code, 1860 (IPC) — Section 323, 427, 504, 506  
Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 —  
Section 3(1)

**Citation : (2011) 02 UK CK 0082**

**Hon'ble Judges : Prafulla C. Pant, J**

**Bench : Single Bench**

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## **Judgement**

Prafulla C. Pant, J.—Heard.

2. By means of this petition moved under Article 226 of Constitution of India the Petitioners have sought quashing of the first information report registered as crime No. 37 of 2010, relating to offences punishable u/s 323, 427, 504, 506 IPC, and one punishable u/s 3(1)(x) Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act 1982, Police Station Kotwali-Gang Neher Roorkee, District Haridwar.

3. Learned Counsel for the Petitioners submitted that mother of the Petitioners was taken to nursing home for her treatment but she died as the nursing home did not admit her and demanded necessary payment before admitting her. The Petitioner No. 1 (Raj Kumar) made a complaint against the nursing home. It is contended that in retaliation complainant who claims himself employee of the nursing home filed impugned criminal complaint to pressurize the Petitioners not to press their complaint. It is pleaded that it is abuse of process of law on the part of the complainant to initiate the criminal 3 proceedings against the Petitioners. It is also argued that even this much is not mentioned in the FIR in question that Petitioners are not members of Scheduled Caste or Scheduled Tribe

as such even the ingredients of the offence alleged are not constituted.

4. Admit the petition.

5. Learned A.G.A., prays for and is allowed six weeks" time to file the counter affidavit.

6. Issue notices to Respondent No. 2 (complainant) who may file his counter affidavit within a period of six weeks.

7. Having considered submissions of learned Counsel for the Petitioners and learned Counsel for the State , and after going through the papers on record, as an interim measure, it is directed that Petitioners namely Raj Kumar and Mahabir Singh shall not be arrested in connection with aforesaid crime, during investigation provided they co-operate with the investigating agency. (Stay application No. 809 of 2011, stands disposed of).

8. List after six weeks.