
(2018) 04 UK CK 0043

In the Uttarakhand High Court

Case No : Criminal Writ Petition No.596 of 2018

RAJESH KUMAR VERMA ALIAS RAJU VERMA AND ANOTHER	APPELLANT
Vs	
STATE OF UTTARAKHAND AND OTHERS	RESPONDENT

Date of Decision : 12-04-2018

Acts Referred:

Citation : (2018) 04 UK CK 0043

Hon'ble Judges : V.K. BIST, J

Bench : Single Bench

Advocate : B.S. Bhandari, S.K. Chaudhary, Piyush Garg

Final Decision : Dismissed

Judgement

1. Present writ petition has been filed for the following reliefs:-

I.) Issue a writ, order or direction in the nature of certiorari quashing the first information report lodged by respondent no.3 on 31.03.2018

registered as FIR No.0064 of 2018 for the offence punishable U/s 420 of IPC, Police Station Kunda, District U.S. Nagar (Annexure No.1 to the writ petition).

II.) Issue a writ, order or direction in the nature of mandamus directing the respondent no.1 & 2 not to arrest the petitioners in pursuance to the first

information report lodged by respondent no.3 on 31.03.2018 registered as FIR No.0064 of 2018 for the offence punishable U/s 420 of IPC, Police

Station Kunda, District U.S. Nagar (Annexure No.1 to the writ petition).

2. On 01.02.2018 respondent no.3 gave a written report to Circle Officer, Kashipur District U.S. Nagar with the averment that a land measuring about

1.902 hectares belongs to Khata No.00056 Khasra No.434 situated at Mauaja Jagatpur Patti & Tehsil Jaspur District-U.S. Nagar is recorded in the

name of late Jagdish Saran. Complainant made an agreement of the alleged land with petitioner no.2 with the help of petitioner no.1, who is

commission agent. Complainant paid total amount of `6, 10,000/- on different dates in lieu of the agreement to petitioner no.2 and petitioner no.2

promised him that he would sell the land to the complainant as early as possible. It is stated that regarding the said land, a suit is pending before the

Tehsildar and due to not getting the favourable order the petitioner no.2, could not register the agreement to sale of the land. It is stated that during this

period petitioner no.1 also took a sum of `9, 30,000/-from the complainant. It is stated that on 31.01.2018, petitioners entered into a registered

agreement with some other persons regarding the same land at Sub Registrar Officer, Jaspur.Â Â

3. Learned counsel for the petitioners submitted that petitioners have falsely been implicated in the instant case. He submits that Petitioner no.1 is a

poor and illiterate person and is running a tea stall for his livelihood. He submits that when the suit for recording the land in revenue record is pending,

how the petitioners can make an agreement with anyone. He further submits that no dates were mentioned regarding the alleged transaction of money

by respondent no.3 and the same is only a hypothesis story.Â Â Â

4. The Honâ??ble Apex Court, in the case of State of West Bengal. Vs. Swapna Kumar, 1982 (1) SCC 561, has held that if an offence is disclosed,

Court will not normally interfere with the investigation into the case, and will permit investigation into the offence alleged to be completed. If the FIR,

prima facie, discloses the commission of an offence, the Court does not normally stop the investigation, for, to do so would be to trench upon the

lawful power of the police to investigate into cognizable offences.Â Â

5. I have considered the submissions of learned counsel for the parties and have gone through the contents of the F.I.R. It cannot be said that from

the reading of the FIR no offence is made out. Whether the facts mentioned in the F.I.R are correct or not, is a matter of investigation. In my opinion

it is not a fit case where the Court should intervene. It is for the Investigating Officer either to file final report or charge sheet in the matter.Â

6. The writ petition is dismissed. At this stage, learned counsel for the petitioners submit that petitioners may be permitted to surrender and courts

below be directed to decide their bail application same day. It is provided that if

petitioners surrender before the court concerned and move bail

application, their bail application shall be considered by the courts below expeditiously, preferably same day.

7. Let the certified copy of this order is issued to the counsel for the parties today itself on payment of usual charges.