

(2018) 04 UK CK 0015

In the Uttarakhand High Court

Case No : Criminal Writ Petition No.493 of 2018

RAKESH KOCHHAR ALIAS BOBBY AND OTHERS

APPELLANT

Vs

STATE OF UTTARAKHAND AND OTHERS

RESPONDENT

Date of Decision : 04-04-2018

Acts Referred:

Code of Criminal Procedure, 1973 — Section 41A

Citation : (2018) 04 UK CK 0015

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

Bench : Single Bench

Advocate : Manav Sharma, J.S. Virk

Final Decision : Disposed Off

Judgement

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

1. issue a writ, order in the nature of certiorari to call for the record and quashing the F.I.R. No.0126 of 2018 dated 12.03.2018

under Sections 147, 186, 332, 353, 504 & 506 of IPC registered at Police Station Bazpur, District Udham Singh Nagar.

2. issue a writ, order or direction in the nature of mandamus directing the respondents not to arrest the petitioners and further be pleased to

stay the proceedings in pursuance of F.I.R. No.0126 of 2018 dated 12.03.2018 under Sections 147, 186, 332, 353, 504 & 506 IPC registered at

Police Station Bazpur, District Udham Singh Nagar.

2. Respondent no.4 registered an F.I.R. No.0126 of 2018 dated 12.03.2018 at 18:47 under Sections 147, 186, 332, 353, 504 & 506 of IPC registered at

Police Station Bazpur, District Udham Singh Nagar against the present petitioners and three more persons alleging therein that at 12.25 hours, when

he alongwith CPU unit was conducting vehicle checking at Beria Tiraha, the petitioners alongwith other named persons and some other unknown

persons came and obstructed the vehicle checking saying that they would not allow them to check vehicles and started abusing the police persons.

Further, Singh Swaroop Bharti collected the crowd and leaded to cause the obstruction in the official duty and created fear.Â

3. Learned counsel for the petitioners submits that the allegations are totally false. He submits that some persons gathered at the place of incident,

they agitated against the checking of vehicles. He submits that it is case, which is covered with the judgment of Honâ??ble Supreme Court reported

in (2014) 8 SCC 273 Arnesh Kumar vs. State of Bihar.Â Â Â Â

4. Learned Deputy Advocate General opposed the writ petition and submitted that in case some credible material is found against the petitioners, in

that event Investigating Officer will proceed further in the matter in accordance with the provisions under Section 41-A of Cr.P.C..Â

5. 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

6. 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

7. In view of above and in view of the statement of learned AGA, no order is being passed. Investigating Officer will investigate the matter.Â

8. The writ petition stands disposed of.Â Â

9. Let the certified copy of this order be issued to the counsel for the parties today itself on payment of usual charges.Â