
(2011) 06 UK CK 0004

In the Uttarakhand High Court

Case No : Criminal Miscellaneous Application (C-482) No. 195 of 2006

Sadhan Kumar Majumdar

APPELLANT

Vs

State of Uttaranchal (Uttarakhand) and Others

RESPONDENT

Date of Decision : 20-06-2011

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Penal Code, 1860 (IPC) — Section 147, 186, 332, 353, 504
Prevention of Corruption Act, 1988 — Section 10, 11, 13, 15, 19

Citation : (2013) 1 NCC 319

Hon'ble Judges : Prafulla C. Pant, J

Bench : Single Bench

Advocate : Sandeep Tandon, for the Appellant; Mamta Bisht, A.G.A., for the Respondent

Final Decision : Allowed

Judgement

Prafulla C. Pant, J.—Heard. By means of this petition, moved u/s 482 of Code of Criminal Procedure, 1973, the petitioner has sought quashing of the proceedings of Special Session Trial 7 of 2006, State vs. S.K. Majumdar, pending in the court of Special Judge, Anti Corruption, Dehradun/Sessions Judge Dehradun, relating to offences punishable u/s 7 /13, Prevention of Corruption "Act, 1988, and under sections 1478, 332, 353, 186 and 504 I.P.C.

2. Learned counsel for the petitioner submitted that no sanction was obtained by the prosecution agency before filing the charge sheet against the petitioner who was Assistant Drug Controller of the State of Uttarakhand.

3. Section 19 of Prevention of Corruption Act, 1988, ;provides that no court shall take cognizance of an offence punishable u/s 7, 10, 11, 13 and 15 of the Act committed by a public servant except with the previous sanction obtained from the concerned State Government or Union of India as the case may be. Perusal of the counter affidavit discloses that no sanction was given against the petitioner u/s 19(1) of the Prevention of Corruption Act, 1988. The Annexure

SA-1 to the supplementary counter affidavit on behalf of the petitioner shows that vide letter dated 20th of March 2009, the principal secretary to the Government of Uttarakhand informed that the Director Vigilance that the Government has decided not to prosecute the petitioner S.K. Majumdar the then Assistant Drug Controller. Issuance of said after gets confirmed from Annexure-3 filed with reply of respondent no. 1 in its supplementary affidavit dated 17th of March, 2011. From the all correspondence on record, it is evidently clear that no sanction for prosecution under any of the section was obtained by the prosecution agency. In the above circumstances, for the want of mandatory sanction required under law the impugned prosecution of the petitioner is liable to be quashed. Accordingly, the petition u/s 482 of Cr.P.C., is allowed and the proceedings of Special Session Trial 7 of 2006, State vs. S.K. Majumdar, pending in the court of Special Judge, Anti Corruption, Dehradun/Sessions Judge Dehradun, relating to offences punishable u/s 7 /13, Prevention of Corruption Act, 1988, and u/s 147, 332, 353, 186 and 504 I.P.C., are hereby quashed.