
(2010) 05 UK CK 0093

In the Uttarakhand High Court

Case No : Criminal Miscellaneous Application (C482) No. 282 of 2003

Samay Singh

APPELLANT

Vs

State of Uttarakhand

RESPONDENT

Date of Decision : 10-05-2010

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Penal Code, 1860 (IPC) — Section 120B, 409, 420, 465, 467

Citation : (2010) 2 UC 947

Hon'ble Judges : Prafulla C. Pant, J

Bench : Single Bench

Advocate : T.A. Kahn, for the Appellant; Mamta Bisht, A.G.A., for the Respondent

Final Decision : Dismissed

Judgement

Hon'ble Prafulla C. Pant, J.—By means of this petition moved u/s 482 of Code of Criminal Procedure 1973(for short Code of Criminal Procedure.) the Petitioners have sought quashing of the proceedings of criminal case No. 2446 of 2003 (crime No. 123 of 2002), State v. Pehal Singh and Ors., relating to offences punishable u/s 420, 409, 465, 467, 468, 471 & 120-B I.P.C., P.S. Laksar, Haridwar, pending in the court of Additional Chief Judicial Magistrate, Haridwar.

2. Heard Learned Counsel for the parties.

3. Brief facts of the case are that certain loans were allegedly distributed by U.P. Co-operative Village Development Bank Ltd., Branch Laksar, Haridwar, in the year 1996, in the name of the farmers for purchasing the engines for the pumping sets, for irrigation. However, after the recovery was sought on complaint, the Bank found that there had been a fraud and forgery in granting loans in false names. Purchase of the engines for pumping sets were shown from the shop of the Petitioners. The first information report was lodged in May, 2002, by the Branch Manager of the Bank which was registered as crime No. 123 of 2002. After investigation the police submitted charge sheet against the two Petitioners

(who are father and son of the shop) from where the purchase of the engines of the pumping sets were shown. One Rakam Singh is also facing trial in respect of offences punishable u/s 420, 409, 467, 468, 471 and 120B I.P.C, with the Petitioners.

4. Learned Counsel for the Petitioners submitted that as per the procedure for granting loans, the Field Officer of the Bank was the person responsible who was required to verify the photographs of the villagers, the agricultural land owned by them and other particulars. It is pleaded that it was not job of the Petitioners who are shop keepers to verify the facts as to the identity of the farmers. It is also pointed out that the first information report is highly belated one as transactions are of the year 1996 and first information report is lodged in the year 2002. It is also submitted that now the farmers have given their affidavits (copy Annexure 12 to Annexure 18) stating that they had received the loans. 4

5. Having considered submissions of Learned Counsel for the parties and after going through counter affidavits, this Court is of the view that whether the engines for the tube well, were actually purchased or not is a question of fact which can be examined by the trial court. As to whether the subsequent affidavits given by the farmers are genuine or not is also a question of fact which cannot be examined by this Court in its jurisdiction u/s 482 of Code of Criminal Procedure.

6. Learned Counsel for the Respondent No. 1/ State pointed out to the statement recorded of the witnesses namely Mamta, Leelawati and Ors. and submitted that there was sufficient evidence to come to the conclusion that the Petitioners were involved in the crime in question, in showing false sale of the engines.

7. In the above circumstances this Court is of the view that considering the nature, facts and circumstances of the case, it is not a fit case to interfere with the trial of the case. The Petitioners are at liberty to raise their plea of innocence before the trial court.

8. Therefore the petition u/s 482 of Code of Criminal Procedure, is dismissed. The interim order dated 2.12.2003, is hereby vacated. It is observed that if the Petitioners surrender before the court concerned, and move bail application, their bail application may be heard and disposed of without unreasonable delay.