

(2020) 09 UK CK 0061

In the Uttarakhand High Court

Case No : Writ Petition (Criminal) No. 1573 Of 2020

Sandeep Singh Bhandari And Another

APPELLANT

Vs

State Of Uttarakhand And Others

RESPONDENT

Date of Decision : 29-09-2020

Acts Referred:

Indian Penal Code, 1860 — Section 406
Constitution Of India, 1950 — Article 226

Citation : (2020) 09 UK CK 0061

Hon'ble Judges : Ravindra Maithani, J

Bench : Single Bench

Advocate : Gaurav Singh, Siddharth Bisht

Final Decision : Disposed Of

Judgement

Ravindra Maithani, J

1. Petitioners seek quashing of the FIR No. 241 of 2020, under Section 406 IPC, Police Station SIDCUL, District Haridwar.
2. Heard learned counsel for the parties through video conferencing and perused the record.
3. According to the FIR, the petitioner no.1 came in touch with a Company, Buland Realcon Private Ltd. (for short "the Company") and assured the Company to purchase property in Uttarakhand. He was a middle man. He took money from the company to purchase a land from a Sommi Devi. But, instead of executing the sale deed in the name of Company, the petitioner no.1 executed the sale deed in his own name. Subsequently, the petitioner no.1 transferred property to the petitioner no.2. There are other averments as well in the FIR in detail.
4. Learned counsel for the petitioners would submit that the petitioners have all valid documents. They have not committed any offence.
5. The Court required learned counsel for the petitioners to submit the sale deed,

by which, the petitioner no.1 purchased the property from Sommi Devi. To it, learned counsel for the petitioners would submit that directions may be given that petitioners may not be arrested unless there is legally admissible evidence against them.

6. On behalf of the State, it is argued that the petitioners inducted themselves as a Broker, but subsequently, executed sale deed in their names.

7. This is a writ petition under Article 226 of the Constitution of India. There are averments categorically against the petitioners in the FIR. Its creditability or reliability to be tested during investigation, or at trial as the case may be. Therefore, no interference is warranted.

8. The apprehension for arrest has been raised. Needless to say, arrest is not a mechanical act of the Investigating Officer. First and foremost, he has to ascertain the complicity of a person in the offence and thereafter, to weigh in his mind the need for arrest. This Court has no doubt that the Investigating Officer, in the instant case, shall also follow the law on the subject of arrest, if any occasion to arrest arises in the instant case.

9. The writ petition is disposed of with the above observations.