

(2020) 10 UK CK 0003

In the Uttarakhand High Court

Case No : Writ Petition (Criminal) No. 1593 Of 2020

Sannoo And Others

APPELLANT

Vs

State Of Uttarakhand And Others

RESPONDENT

Date of Decision : 01-10-2020

Acts Referred:

Indian Penal Code, 1860 — Section 323, 406, 504, 506
Code Of Criminal Procedure, 1973 — Section 151
Constitution Of India, 1950 — Article 226

Citation : (2020) 10 UK CK 0003

Hon'ble Judges : Ravindra Maithani, J

Bench : Single Bench

Advocate : Gaurav Singh, Pratiroop Pandey

Final Decision : Disposed Of

Judgement

Ravindra Maithani, J

1. Heard learned counsel for the parties through video conferencing.
2. Petitioners seek quashing of an FIR No. 641 of 2020, under Sections 323, 504, 506, 406 IPC, Police Station Laksar, District Haridwar.
3. According to the FIR, the informant deals with chickens, he purchases chickens from the farm of petitioner no.3 Omveer. On 16.09.2020, mid-night at 01:00 AM, they went to purchase chickens at the farm of petitioner no. 3 Omveer. Money was taken from the informant but chickens were not given. All the three petitioners were present at the time of incident and when the informant insisted for chickens, he were abused and petitioner no. 3 Omveer was about to assault the informant.
4. Learned counsel for the petitioners would submit that the FIR is false. On the date of incident at mid-night, Police had booked the parties under Section 151 of the Code of Criminal Procedure, 1973 (for short "the Code"), but, subsequently this false report is lodged. Alternatively, it is argued that it is the case which is

covered by the judgment in the case of Arnesh Kumar vs. State of Bihar and another (2014) 8 SCC 273

5. This is the petition under Article 226 of the Constitution of India. On behalf of the petitioners, it is submitted that something happened at the time of incident which prompted Police to arrest the parties under Section 151 of the Code.

6. If parties are proceeded under Section 151 of the Code, it does not preclude either of the parties, if aggrieved, to proceed under penal laws.

7. In the instant case, the FIR reveals as to what had happened. It discloses commission of offence. What is its' truthfulness it cannot be adjudged in this proceeding; therefore, no interference is warranted.

8. Apprehension is raised that the petitioner may be arrested without following the procedure.

9. 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 arresting. 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.

10. With the above observations, the instant writ petition stands disposed of.