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**(2010) 07 UK CK 0027**  
**In the Uttarakhand High Court**

Sat Pal Singh and Others

APPELLANT

Vs

State of Uttarakhand and Others

RESPONDENT

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**Date of Decision :** 22-07-2010

**Acts Referred:**

Criminal Procedure Code, 1973 (CrPC) — Section 200, 202, 482  
Penal Code, 1860 (IPC) — Section 406, 504, 506

**Citation :** (2011) 1 NCC 144

**Hon'ble Judges :** Dharam Veer, J

**Bench :** Single Bench

**Final Decision :** Dismissed

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## Judgement

Dharam Veer, J.—By means of this petition, moved u/s 482 of The Code of Criminal Procedure, 1973 (for short Cr.P.C.), the petitioner/applicant has sought quashing of the summoning order dated 9.8.2004 passed by Chief Judicial Magistrate, Rudrapur in Criminal Complaint Case No. 92 of 2005, under Sections 504/506/406 of IPC.

2. Heard learned Counsel for the parties and perused the entire material available on file.

3. Brief facts of the case are that Buta Singh (respondent No. 3) filed a complaint in the court of Chief Judicial Magistrate, Udham Singh Nagar against the present applicants on 22.7.2004 with the allegations that on 31.11.2003 the complainant sold his 100 quintals of paddy to the applicants @ Rs. 650/quintal. Out of the total amount, the applicants had given him Rs. 15,000/- cash on the spot and had assured to pay the rest of the amount i.e. Rs. 50,000/- after one month. It is alleged that on 1.7.2004 at about 10 AM the complainant had gone at Gadarpur Mandi where the applicants met him. The complainant asked for his money from the applicants but they became annoyed and abused him. Thereafter at 3 PM, when the complainant was going to his house, the applicants met him on the way and on the exhortation of applicants Isham and Rajpal, the applicant Satpal fired on the complainant by Tamancha but the complainant

narrowly escaped. On hearing the alarm of the complainant, some passersby, namely, Sahab Singh, Shankar Bairagi and others intervened into the dispute. Thereafter, the applicants went from the place of occurrence after giving him threat. With the same averments, respondent No. 3 filed the complaint against the applicants in the court of C.J.M., Udham Singh Nagar. The complainant in support of his case got himself examined u/s 200 Cr.P.C. and u/s 202 Cr.P.C. Nawab Singh, Shankar Bairagi and Sahab Singh were got examined. After hearing learned Counsel for the complainant and perusing the entire material available, learned Chief Judicial Magistrate, Udham Singh Nagar, vide his order dated 9.8.2004, summoned the applicants under Sections 504/506/406 of IPC. Feeling aggrieved by the said order dated 9.8.2004, the applicants have preferred the present Code 482 application before this Court.

4. A counter affidavit has been filed on behalf of the complainant in which the averments in the Code 482 application, with regard to the present case, have been denied.

5. From a perusal of the contents of the complaint as well as the statement of the complainant recorded u/s 200 Cr.P.C. and that of Nawab Singh, Shankar Bairagi and Sahab Singh recorded u/s 202 Cr.P.C. and after going through other papers available in file, I am of the view that prima facie a case under Sections 406/504/506 of IPC is made out against the applicants.

6. Even otherwise, the trial court will decide the case after recording the evidence of the complainant as well as of the accused and also on the basis of the appreciation of the evidence as per law. It is well settled that while exercising jurisdiction u/s 482 of the Cr.P.C., this Court would not ordinarily embark upon the enquiry as to whether the evidence in question is reliable or not or whether on a reasonable appreciation of it accusation would not be sustained. That is the function of the trial court. If the allegations made in the complaint and the statement recorded u/s s 200 and 202 Cr.P.C. are taken at their face value and accepted in their entirety, I am of the view that the applicants have rightly been summoned by the trial court. The trial court will decide the case after recording the evidence adduced before it. I am of the view that in the present case there is neither any miscarriage of justice nor any abuse of process of court.

7. For the reasons recorded above, there is no force in the application. The Code 482 application, being devoid of merit, is dismissed accordingly. Interim order dated 26.10.2005 stands vacated.