
(2019) 04 UK CK 0096

In the Uttarakhand High Court

Case No : Criminal Writ Petition No. 556 Of 2019

Shamashad

APPELLANT

Vs

State Of Uttarakhand And Others

RESPONDENT

Date of Decision : 16-04-2019

Acts Referred:

Indian Penal Code, 1860 — Section 332, 353, 504
Constitution Of India, 1950 — Article 226

Citation : (2019) 04 UK CK 0096

Hon'ble Judges : Ravindra Maithani, J

Bench : Single Bench

Advocate : Raj Kumar Singh, S.S. Adhikari

Final Decision : Dismissed

Judgement

Ravindra Maithani, J

1. The instant petition under Article 226 of the Constitution of India has been filed by the petitioner for quashing the impugned FIR No.145 of 2019 under Sections 504, 332, 353 of IPC at Police Station Gangnagar, District Haridwar and also seeking direction so that the petitioner may not be arrested in connection with the FIR.

2. Heard and perused the records.

3. According to the FIR, which was lodged on 24. 03.2019, on that day the first informant, who is an engineer in the electricity department, was on a visit to recover electricity dues as well as for disconnecting the connections of the defaulters. He was accompanied by the other officers of the electricity department. The connections of the defaulters were being disconnected. When petitioner's connection was disconnected, he came at the camp and started misbehaving, abusing the first informant and other officials of the electricity department. He did marpeet as well and threatened the electricity department's team to leave the village.

4. Learned counsel for the petitioner would argue on a limited point that the petitioner apprehends that he may be arrested in a routine and mechanical manner without following the guidelines as laid down in the case of Arnesh Kumar vs. State of Bihar and another, (2014)8 SCC 27, therefore he may be protected from arrest.

5. The petition is filed for quashing of the FIR also. Perusal of the FIR reveals commission of cognizable offence. What is its truthfulness? It has to be tested in investigation or at trial, as the case may be. Therefore, there is no ground to make an interference in the proceedings under Article 226 of the Constitution of India. Accordingly, the instant petition deserves dismissal.

6. In the case of Arnesh Kumar (supra), while interpreting and making reference to the various provisions of the Code of Criminal Procedure, 1973, pertaining to arrest and production of the accused before the Magistrate, the Hon'ble Court observed as under:-

"11. Our endeavour in this judgment is to ensure that police officers do not arrest the accused unnecessarily and Magistrate do not authorise detention casually and mechanically....."

7. Thereafter, from paragraph no.11.2 to 11.8, Hon'ble Court, in the case of Arnesh Kumar (supra) issued directions to the Police Officers authorized to make arrest as well as to the Magistrate authorized to order of detention of the accused.

8. Needless to say, Investigating Officer shall abide by the directions issued in the case of Arnesh Kumar (supra) before effecting arrest of the petitioner. The Senior Superintendent of Police, District Haridwar shall ensure it.

9. Accordingly, with the above observations, the writ petition is dismissed.