
(2010) 07 UK CK 0154
In the Uttarakhand High Court

Shamshad @ Mota

APPELLANT

Vs

State of Uttarakhand and Others

RESPONDENT

Date of Decision : 22-07-2010

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Essential Commodities Act, 1955 — Section 3, 7

Citation : (2011) 2 UC 1458

Hon'ble Judges : Dharam Veer, J

Bench : Single Bench

Final Decision : Dismissed

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 order dated 22.4.2006 passed by A.C.J.M., Roorkee in Case No. 2 of 2006, State v. Shamshad @ Motu u/s 3/7 of The Essential Commodities Act, 1955 (for short, the Act) as well as quashing of the charge sheet related to above-said case.

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

3. Brief facts of the case are that Sri M.P. Mishra, Supply Inspector, Narsan, P.S. Manglore lodged a report at P.S. Manglore stating therein that on 2.12.2005 at 12:15 PM, he along with S.I. Dinesh Chandra Gupta and Constables Sanjay Kumar, Ravindra Kumar, Gautam Kumar and Rajneesh Kumar conducted a raid at Village Thithola (Landhora) against the persons involved in black-marketing of oil. During the raid, two drums containing 150 Litres Diesel each and two plastic cane containing 50 Lts. Kerosene oil each were recovered from the courtyard of the co-accused Shaukat. Thereafter, at 1:30 PM, one drum containing 100 Lts. Kerosene oil and a plastic cane containing 50 Lts. Diesel, were recovered from the house of the present applicant. Further, 200 Lts. Kerosene oil was also recovered from the house of another co-accused Lalu. It is alleged in the complaint that all

the aforesaid articles were illegally kept by the accused persons. With the same averments, the FIR was lodged by Sri M.P. Mishra, Supply Inspector at P.S. Manglore on 2.12.2005 at 5:30 PM. After lodging of the FIR, the matter was investigated and on completion of investigation, the Investigating Officer submitted the charge sheet against the applicant u/s 3/7 of the Act in the court on which Addl. Chief Judicial Magistrate, Roorkee vide order dated 22.4.2006 took the cognizance against the applicant and thereafter criminal proceedings were initiated against him. Against the said charge sheet and the order dated 22.4.2006, the applicant has preferred this application u/s 482 Cr.P.C. before this Court.

4. From a perusal of the contents of the First Information Report and after going through other papers available in file, prima facie a case u/s 3/7 of the Act is made out against the applicant.

5. 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 First Information Report are taken at their face value and accepted in their entirety as well as on the basis of the evidence collected by the I.O. during investigation, I am of the view that the charge sheet is rightly submitted against the applicant and the applicant has accordingly 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.

6. For the reasons recorded above, there is no force in the application. The Code 482 application, being devoid of merit, is hereby dismissed. Interim order dated 19.7.2006 stands vacated.