

(2017) 07 UK CK 0028
In the Uttarakhand High Court
Case No : 1077 of 2017

Shri Chandra Kumar Sabarwal?@ Chandra Mohan Vs State of Uttarakhand & other

Date of Decision : 13-07-2017

Acts Referred:

Negotiable Instruments Act, 1881, Section 138 - Dishonour of cheque for insufficiency, etc., of funds in the account

Citation : (2017) 07 UK CK 0028

Hon'ble Judges : V.K. Bist

Bench : Single Bench

Advocate : Devesh Ghildiyal, ?Raman Kumar Sah, ?Neeraj Garg

Final Decision : Disposed

Judgement

1. Present petition has been filed by the petitioner challenging the impugned order dated 28.06.2017 passed by Session Judge, Dehradun in Criminal Appeal No.77 of 2017, " Shri Chandra Kumar Sabarwal vs. State of Uttarakhand and another " whereby the learned Sessions Judge admitted the appeal against the conviction and sentence under section 138 of Negotiable Instrument Act. Learned Sessions Judge though enlarged the appellant (petitioner herein) on bail but put a condition of deposition of 30% amount of compensation.

2. Learned counsel for the petitioner submits that while admitting the appeal, the learned Sessions Judge should not have asked the appellant to deposit the amount of compensation. He submits that in the appeal the court is required to examine the facts as well as evidence, therefore, the condition imposed at the time of grant of bail is totally illegal. He referred the judgment of Coordinate Bench of this Court passed in Criminal Writ Petition No.1087 of 2013 in which the Court has quashed the order by which condition was imposed.

3. Mr. Neeraj Garg, Advocate for respondent no.2 opposed the writ petition on the ground that such condition is fully justified. He relied on the judgment of Hon''ble Apex Court reported in 2007(6)SCC, 528. He further submits that the amount should be reasonable.

4. Learned counsel for the parties submits that petitioner and respondent no.2 are senior citizens. They submit that petitioner is 75 years old and respondent no.2 is his elder brother. They submit that there is possibility of compromise.

5. I have heard learned counsel for the parties at great length. I think that petitioner and respondent no.2 are very old persons. As per the submissions of learned counsel for the parties, I find that there is possibility of compromise. Therefore, the order passed by the Sessions Judge is modified to the extent that petitioner will deposit Rs. 1,00,000/- within a period of one week from today before the Sessions Judge, Dehradun in place of 30% of amount of compensation. In case, petitioner deposits Rs. 1,00,000/- within a period of one week from today, he shall be released on bail on executing a bond of Rs. 30,000/- and furnishing two reliable sureties, each of the like amount to the satisfaction of Magistrate concerned.

6. Writ petition is disposed of. (Stay application also stands disposed of.)

7. Let a certified copy of this order be supplied to the counsel for the parties within 24 hours.