

(2017) 06 UK CK 0022
In the Uttarakhand High Court
Case No : 1393 of 2013

Smt. Kavita Dhiman & another

APPELLANT

Vs

State of Uttarakhand & others

RESPONDENT

Date of Decision : 12-06-2017

Acts Referred:

[Code of Criminal Procedure, 1973](#), [Section 482](#) - Saving of inherent powers of High Court
[Indian Penal Code, 1860](#), [Section 332](#),
[Section 353](#), [Section 341](#) -
Voluntarily causing hurt to deter public servant from his duty. - Assault or criminal force to deter public servant from discharge of his duty - Punishment for wrongful restraint

Citation : (2017) 06 UK CK 0022

Hon'ble Judges : U.C. Dhyani

Bench : Single Bench

Advocate : B.S. Parihar, ?Raman Kumar Shah,?Prem Kaushal

Judgement

1. An FIR was lodged by three persons, being respondent nos. 2, 3 and 4 herein (un-represented) on 27.06.2013, against the applicants for the offences punishable under Sections 353, 341, 332 IPC, at Patwari Kshetra Naini, Sub District Bara Mandal, District Almora, alleging therein, that when Chief Development Officer, Almora went for inspection of live stock, Live Stock Development Officer and others created hindrance in the Governmental functions of the Chief Development Officer.

2. Learned counsel for the applicants submitted that the applicants were exonerated in the departmental enquiry, which was conducted by the Secretary of the Department concerned in the Government. A copy of the letter dated 29.04.2016, written by the Departmental Secretary to the Secretary Uttarakhand Public Service Commission has been placed before the Court to show the same.

3. None has responded for respondent nos. 2, 3 and 4, despite service of notice upon them. It appears that they (complainants) are not interested in prosecuting

the accused applicant.

4. At the time of admission of present C-482 petition, a co-ordinate bench of this Court, passed an interim order, vide order dated 17.12.2013, and stayed further proceedings of the criminal case initiated against the applicants, pending in the court of C.J.M., Almora.

5. There seems to be substance in the contention of learned counsel for the applicants that if criminal proceedings are allowed to be continued against present applicants, the same will amount to abuse of the process of the Court.

6. It will be a futile exercise to keep present application under Section 482 Cr.P.C. pending in the court.

7. The Court can intervene in exercise of jurisdiction under Section 482 Cr.P.C. to prevent the abuse of process of law, as has been held by Hon"ble Apex Court in *Rajiv Thapar and others vs Madan Lal Kapoor* (2013) 3 SCC 330; *Amit Kapoor vs Ramesh Chander and another* 2013 (1) SCC (CrI) 986 and *Inder Mohan Goswami and another vs State of Uttarakhand and others* (2008) 1 SCC (CrI) 259.

8. Application under Section 482 Cr.P.C. is, therefore, allowed. The entire proceedings of criminal case no. 675 / 2013, State vs Kavita Dhiman and another, under Section 341 IPC, pending in the court of Chief Judicial Magistrate, Almora are hereby set aside.

10. Since present application under Section 482 Cr.P.C. is being decided in the absence of respondent nos. 2, 3 and 4, therefore, liberty is granted to them to move for recall of this order, if they feel aggrieved with the same.