
(2010) 04 UK CK 0075
In the Uttarakhand High Court

Smt. Suman and Vijay Pal

APPELLANT

Vs

State of Uttaranchal

RESPONDENT

Date of Decision : 07-04-2010

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Penal Code, 1860 (IPC) — Section 120B, 406, 409, 420

Citation : (2010) 04 UK CK 0075

Hon'ble Judges : Prafulla C. Pant, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Prafulla C. Pant, J.—This is recall/restoration application MCRC No. 191 of 2010, moved on behalf of the petitioners for restoration of criminal misc. application (C-482) No. 287 of 2003, which was dismissed for non prosecution on 25.02.2010.

2. Heard and perused the affidavit, filed with the application.

3. In view of the principle of law laid down in Madhumilan Syntex Ltd. v. Union of India and Ors. 2007 AIR SCW 1971, and considering the explanation, given in the affidavit, filed with the restoration application, the restoration application is allowed on the condition that the parties shall argue the petition u/s 482 of Code of Criminal Procedure, 1973 (for short Cr.P.C.), today itself. The order dated 25.02.2010, is recalled accordingly and heard learned Counsel for the parties on the petition u/s 482 Cr.P.C.

4. By means of this petition, moved u/s 482 Cr.P.C., the petitioners have sought quashing of the proceedings of criminal case No. 2455 of 2003, State v. Dheer Singh and five Ors., relating to offences punishable under Sections 420, 406, 409, 120B I.P.C., pending in the court of Additional Chief Judicial Magistrate, Roorkee.

5. Brief facts of the case are that when respondent No. 3-Additional Sub-

Divisional Magistrate, on receiving information, inspected the spot, found that the food grain, which was meant for distribution under the scheme-"KAAM KE BADLE ANAJ" was found being sold to private persons, who were set to take the goods from the spot. Said officer seized the food grain and lodged the First Information Report. After investigation, charge-sheet, was filed against five accused, including the two petitioners.

6. Learned Counsel for the petitioners submitted that the petitioners are innocent. It is further pleaded that from the papers on record, there appears no involvement of the petitioners in selling the food grain in private market.

7. Whether the petitioners are innocent or not, whether there is complicity on their part in commission of crime, are the questions of fact, which can be seen by the trial court after recording evidence of the witnesses. This Court, in its jurisdiction u/s 482 Cr.P.C. is not inclined to give opinion on the factual dispute, raised before this Court.

8. Having considered submissions of learned Counsel for the parties, and after going through the papers on record, without expressing any opinion as to the final merits of the case, pending before the trial court, this petition u/s 482 Cr.P.C. is dismissed with the observation that if the petitioners surrender before the court concerned, their bail applications shall be heard and disposed of without unreasonable delay.