
(2008) 01 UK CK 0009

In the Uttarakhand High Court

Case No : Criminal Miscellaneous Application No. 157 of 2005

Sub-Inspector Raghuvarsh Kumar Chauhan

APPELLANT

Vs

State of Uttaranchal and Others

RESPONDENT

Date of Decision : 04-01-2008

Acts Referred:

Penal Code, 1860 (IPC) — Section 120(B), 313, 376, 419, 493

Citation : (2008) NCC 287

Hon'ble Judges : B.C.Kandpal, J

Bench : Single Bench

Advocate : Sandeep Tandon, for the Appellant;

Judgement

Hon"ble B.C. Kandpal, J.—By way of this petition, the petitioner who is the Investigating Officer in Case Crime No. 281 of 2004, State Vs. Karim Khan @ Iqbal Malik, under Sections 376, 419, 313, 493, 495, 505 (2), 120(B) of I.P.C. and 5/7 of the Drugs & Magic Remedies (Objectionable) Advertisement Act, 1954 has challenged the order dated 03.11.2004 passed by learned Session Judge, Dehradun thereby granting bail to the accused Karim Kalan @ Iqbal Malik as well as directing the Investigating Officer to pay a sum of Rs. 5,000/- as compensation to the prosecutrix. Heard Sri Sandeep Tandon, learned counsel for the petitioner, learned A.G.A. for the State and perused the record.

2. It reveals from the impugned order dated 03.11.2004 passed by the learned Sessions Judge, Dehradun by which the bail was granted to the accused - Karim Khan @ Iqbal Malik. The learned Session Judge by the same order directed the petitioner who was the Investigating Officer in the case in question to pay a sum of Rs. 5,000/- as compensation to the prosecutrix and that amount would be deducted from his salary.

3. The learned Session Judge before passing the order for the payment of amount as compensation by the petitioner to the prosecutrix, could have afforded a reasonable opportunity to revert the allegations made against him.

Although, the learned Session Judge has deprecated the conduct of the Officer by observing in the impugned order that the Investigating Officer has not made the investigation in accordance to the provision of the Cr.P.C. as well as the Regulation envisaged in Police Manual, but learned Session Judge before issuing the direction to the Investigating Officer for payment of amount of Rs. 5,000/- should have afforded an opportunity to him to explain the conduct. The learned Session Judge to my mind has fell in error in passing the impugned order, thereby directing the Investigating Officer/petitioner to pay an amount of Rs. 5,000/- as compensation to the prosecutrix and at the same time, directing the Police Authority to deduct that amount from his salary.

4. Learned counsel for the petitioner has invited my attention towards the decision of the Hon''ble Apex Court in State of West Bengal & others vs. Babu Chakraborty reported in AIR 2004 S.C. p/4324 in which it has been held that the strictures against the police officers without giving them an opportunity, should not be passed.

5. In the light of the aforesaid judgment passed by the Hon''ble Apex Court, I direct the petitioner to move the representation or an explanation before the learned Session Judge who after examining the same shall pass the order in accordance with law. Till the matter is finally disposed of by the learned Session Judge, Dehradun, the impugned order dated 03.11.2004 thereby directing the petitioner to pay a sum of Rs. 5,000/- as compensation, to the prosecutrix shall be kept in abeyance. With these observations, the petition is disposed of finally.