
(2020) 07 UK CK 0057

In the Uttarakhand High Court

Case No : Writ Petition (Criminal) No. 1007 Of 2020

Subham Rana And Another

APPELLANT

Vs

State Of Uttarakhand And Others

RESPONDENT

Date of Decision : 30-07-2020

Acts Referred:

Indian Penal Code, 1860 — Section 420
Constitution Of India, 1950 — Article 226

Citation : (2020) 07 UK CK 0057

Hon'ble Judges : Ravindra Maithani, J

Bench : Single Bench

Advocate : Sheetal Selwal, P.S. Bohara, Shivangi Gangwar

Final Decision : Dismissed

Judgement

Ravindra Maithani, J

1. The petitioners moved this petition for quashing of an FIR No. 44 of 2020, under Section 420 IPC, Police Station Nanakmatta, District Udham Singh

Nagar, and directions that they may not be arrested pursuant to the FIR.

2. FIR in the instant case was lodged by the informant, who is arrayed as respondent no.3 on 22.02.2020. According to it, both the petitioners

approached the informant and express their willingness to sell their land. In the month of October, both the petitioners called the informant at a piece

of land and introduced them to a person, whom the respondent no.2 introduced as her husband Jagdev. On 17.11.2018, both the petitioners alongwith

the person, whom they introduced as husband of petitioner no.2 Jagdev executed an agreement to sale at Khatima tehsil for Rs.18 lakhs. The

informant paid Rs.1 lakh through a cheque, in the name of petitioner no.1 Subham Rana and remaining Rs.15,50,000/- was paid in cash to both the

petitioners and the person name Jagdev.

3. Possession was not given then because there was crop standing on the field. Subsequently, the informant came to know that, in fact, the person,

who was introduced as Jagdev by the petitioners, was not actually Jagdev. The real Jagdev, subsequently met the informant and then it was revealed.

Neither possession was given to the informant nor the money returned to him.

4. Learned counsel for the petitioners would submit that on the date of alleged incident, the petitioner no.1 was 17 years of age and sale-deed could

not have been executed then.

5. On behalf of the State, learned counsel seeks time for instructions. What instructions are required in the case, when the FIR is before the Court?

Even otherwise, the petitions are served on the learned counsel for the State, much in advance so that they may be ready at the time of hearing with

the instructions. This Court declines to grant any time to learned State counsel and proceeds to hear the matter.

6. In para 17 of the petition, it is inter alia averred that "the petitioner has not cheated to the bank in any manner, hence no case under Section 420

of IPC is made out against the present petitioner." When the Court required learned counsel for the petitioners to explain as to, which bank is

cheated, she would simply say, it is a typographical error that such contents have been typed.

7. The petition is under article 226 of the Constitution of India. Interference at the level of investigation is rarely made in exceptional circumstances.

The basic principle, which is settled, is that, if cognizable offences are disclosed, interference is not generally made. The veracity, credibility and

trustworthiness of the contents are matter for examination during investigation or trial as the case may be.

8. In the instant case, it is categorically written in the FIR that both the petitioners cheated the informant. They introduced a person as Jagdev,

whereas he was not Jagdev. They executed an agreement to sale alongwith the impersonated person and took money from the informant. In fact

there is a reference to a cheque as well. What is the credibility, trustworthiness of these statements, this Court is not going to examine it. Therefore,

this Court is of the view that there is no merit in this petition and it deserves to be dismissed.

9. The writ petition is hereby dismissed.