
(2012) 09 UK CK 0058

In the Uttarakhand High Court

Case No : Criminal Miscellaneous Application No. 349 of 2009

Subhash Nagar

APPELLANT

Vs

State of Uttarakhand and Another

RESPONDENT

Date of Decision : 07-09-2012

Acts Referred:

Penal Code, 1860 (IPC) — Section 406, 420, 506

Citation : (2013) 1 NCC 287

Hon'ble Judges : Servesch Kumar Gupta, J

Bench : Single Bench

Advocate : Rajendra Singh, for the Appellant; R.P. Nautiyal, Assistant Advocate General (Criminal) for State and Mr. Mohd. Azim, Learned Counsel holding brief of Mr. Sandeep Tandon, Learned Counsel for the Respondent No. 2, for the Respondent

Final Decision : Dismissed

Judgement

Servesch Kumar Gupta, J.—Heard Mr. Rajendra Singh, learned counsel for the petitioners, Mr. R.P. Nautiyal, Assistant Advocate General (Criminal) for the State and Mr. Mohd. Azim, learned counsel holding brief of Mr. Sandeep Tandon, learned counsel for the respondent no. 2. This judgment will dispose of all the above mentioned petitions as the object of filing of these petitions is common, viz. to quash the entire criminal proceedings of Special Sessions Trial No. 6/200S, State Vs. Harpal Goswami & others. The said Sessions Trial is pending adjudication in the court of Special Judge, Gangsters Act, District Haridwar.

2. Having heard the learned counsel of the petitioners as well as Deputy Advocate General (Criminal) for the State, it appears that the first information report was lodged by Shri Jasbir Singh Pundir, Inspector Incharge, Kotwali Roorkee, District Haridwar against these petitioners, namely, Subhash Nagar, Yashveer Singh and Harpal Goswami on 16.09.2003 in Kotwali Roorkee. The said FIR discloses that there is an organized gang of these accused persons, who remain in the society as a white color criminals. Their task is to put the people

under coercion, intimidation and fear on the strength of their miscreant nature. They force the people to enter into the transaction of purchasing and selling the land and, in this way, they earn the illegal money. They also extort money from the respectable people of the society, by giving them threats to advert their obscene pictures. Due to this task of the petitioners, the people are so terrorized and nobody dares to approach the police and lodge an FIR against them. In the first information report, the criminal history of these persons were also briefed and the Inspector Incharge also got approval of the ganttchart from the District Magistrate," Haridwar and lodged the FIR. After investigation, the charge-sheet was submitted against all the (accused persons u/s 2 /3 of the Gangster & Anti-Social Activities (Prevention) Act, 1986 wherefor they were facing trial in the court below.

3. The learned counsel for the petitioners has taken up this court to the first information report dated 28.06.2003 lodged by one Mrs. Devendra Kaur. This first information report was lodged on the application moved by Mrs. Devendra Kaur to the police on 21.06.2003. The genesis of the said FIR was that her husband has been cheated by these persons in a land transaction. After investigation, the charge-sheet was submitted in that case and these above named petitioners were facing the trial, but, Mrs. Devendra Kaur got her money back from them and entered into a compromise with the petitioners, so, the court below acquitted them vide order 02.08.2007.

4. An attention has also been drawn that these petitioners also faced another criminal case NO. 252S/2002 for the offences punishable u/s 420, 406, 506 IPC pertaining to Police Station Kotwali Roorkee wherein the first information report was lodged by one Mr. Ram Kumar Goel. The aforementioned case was another case of cheating in a land transaction. Mr. Ram Kumar Goel got his money back and entered into a compromise. So, the trial ended in an acquittal on 26.11.2002.

5. It has been contended on behalf of all the petitioners that they were acquitted in both the criminal trials, so, they cannot be designated to be gangsters. This judgment is wholly untenable and is likely to be rejected with lock, stock and barrel because merely the petitioners were acquitted in two criminal trials is no ground at all to acquit them from the offences punishable u/s 2 /3 of the Gangster & Anti-Social Activities (Prevention) Act, 1986 wherefor they have been charge-sheeted. More so because when the sword of conviction is hanging upon them, they returned the money of the persons from whom the money is taken and entered into the compromise. It makes more evident and enough to draw the inference that they remained indulged in the practice of coercion, cheating and intimidation as has been narrated by the Inspector Incharge in the first information report, lodged by him on 16.09.2003.

6. In the light of the aforesaid, this court feels that there is no ground to quash the charge-sheets filed against the petitioners and all the petitions are hereby dismissed. Stay order, if any, is hereby vacated and the trial court is hereby directed to proceed with trial and conclude it very expeditiously preferably within

eight months. Let the copy of the judgment be sent to the trial, court.