
(2020) 08 UK CK 0013

In the Uttarakhand High Court

Case No : Writ Petition (Criminal) No. 1228 Of 2020

Sumit

APPELLANT

Vs

State Of Uttarakhand And Others

RESPONDENT

Date of Decision : 14-08-2020

Acts Referred:

Indian Penal Code, 1860 — Section 147, 149, 188, 269, 270, 322, 353, 505, 506
Disaster Management Act, 2005 — Section 56
Constitution Of India, 1950 — Article 226

Citation : (2020) 08 UK CK 0013

Hon'ble Judges : Ravindra Maithani, J

Bench : Single Bench

Advocate : Siddhartha Bankoti, P. S. Bohra

Final Decision : Disposed Of

Judgement

Ravindra Maithani, J

1. In the instant writ petition, the petitioner seeks quashing of an FIR No. 222 of 2020, under Sections 147, 149, 188, 269, 270, 322, 353, 505 and 506

IPC and Section 56 of the Disaster Management Act, 2005 (for short the Act) Police Station I.T.I, District Udham Singh Nagar.

2. Heard learned counsel for the parties through video conferencing.

3. According to the FIR, on 28.02.2020, the informant who was enrolled in PRD was on duty at a border. At about 3:30 PM, on that date, he

intercepted a motorcycle driven by co-accused, Vicky, and stopped him to move ahead in view of Covid-19 directions. At this, co-accused Vicky

misbehaved and abused the informant and slapped him. Thereafter, some other persons, joined him and they took co-accused Vicky away from the

spot. According to the FIR, after a while, the co-accused Vicky alongwith some

20-25 persons including the petitioner again came at the barrier and started beating the informant. When other Police Constables tried to intervene, they were also beaten. FIR states that the informant and others sustained injuries.

4. Learned counsel for the petitioner would argue that no specific allegations have been levelled against the petitioner; all the offences are punishable with imprisonment of three years or less, triable by Magistrate and the petitioner is named on the basis of hearsay statement.

5. This is a petition under Article 226 of the Constitution of India. Factual aspects cannot at all be examined generally in such petitions. There are averments of beating, assaulting a person on duty at a barrier and FIR states that they sustained injuries, as well. It is not hearsay; the FIR records that informant and others identified the petitioner. What is his role and to what extent is he involved in the crime, is a matter for investigation.

Therefore, no interference is warranted.

6. Learned counsel for the petitioner then argues that this case is covered by the principles of law as laid down in the case of Arnesh Kumar Vs.

State of Bihar and another (2014) 8 SCC 273, wherein para no.11 of it, the Honâ??ble Court issued certain directions with regard to arrest.

7. Needless to say, arrest is definitely not a routine and mechanical act to be exercised by an Investigating Officer. It is something, which curtails a personâ??s liberty and personal freedom of a man. There are various guidelines with regard to exercise of this right. This Court has no doubt that the Investigating Officer shall follow all the guidelines with regard to arrest, if occasion arises.

8. With the above observation, the writ petition stands disposed of.