
(2011) 07 UK CK 0210

In the Uttarakhand High Court

Case No : Criminal Miscellaneous Application No. 683 of 2008

Tara Chand

APPELLANT

Vs

State of Uttarakhand and Others

RESPONDENT

Date of Decision : 26-07-2011

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 156(3), 482
Penal Code, 1860 (IPC) — Section 419, 420, 467, 468, 471

Citation : (2011) 07 UK CK 0210

Hon'ble Judges : Servesch Kumar Gupta, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Servesch Kumar Gupta, J.—This criminal miscellaneous application, u/s 482 CrPC, has been moved by the applicant seeking direction from this Court to Respondent No. 1, SHO, Kotwali Roorkee, Haridwar for the registration of the First Information Report u/s 420, 467, 468, 471, 419, 504, 506 IPC against the Respondents No. 2 to 4.

2. Initially, on 22.4.2008, the applicant had moved an application u/s 156(3) Code of Criminal Procedure before the Court of Judicial Magistrate, Roorkee with the averments that his mother Smt. Mansha expired in the year 1960, whereas the accused Respondents got executed a forged sale deed of a residential house, which was owned by his mother, on 25.9.1962, and also mutated their names in the relevant record. It is further alleged that the accused Respondents are trying to grab the said residential house on the strength of this forged sale deed. The learned Magistrate called a report in this regard from the concerned police station and after considering the said report and other materials adduced by the applicant, dismissed his application, holding the same to be without any substance, vide order dated 26.4.2008. Being aggrieved, the applicant preferred a revision against the said order of the Magistrate before the Sessions Judge, Haridwar, which was also dismissed on 4.7.2008. Hence, the applicant has

approached this Court by filing this criminal miscellaneous application.

3. I have heard learned Counsel for the applicant and learned GA for the State and perused the papers on record.

4. It is the contention of the applicant that his mother Smt. Mansha died in the year 1960. In support of his contention, the applicant has appended with this petition a photocopy of the dead certificate of his mother. A perusal of the same reveals that this dead certificate has been issued by some authority, whose particulars are not legible. It further reveals that the exact date of death of Smt. Mansha has not been mentioned in the said certificate. Only the tentative years of her death i.e. in the year 1960/61 have been mentioned. It has also been stated in the said certificate that the said tentative years of death of Smt. Mansha has been ascertained on the basis of interrogatories from the old persons of the area as well as on the basis of the affidavit given by the applicant Tara Chand. It is further relevant to mention here that the said death certificate has been issued on 14.1.2008, whereas the sale deed, in question, was executed on 25.9.1962, on the basis of which the names of the Respondents have also got mutated in the relevant record. The applicant pleads that the sale deed is forged one and, therefore, a criminal case should have been registered by the police against the Respondents No. 2 to 4.

5. Narration of the aforesaid facts clearly shows that the matter has been given its due consideration, when the applicant filed a complaint u/s 156(3) Code of Criminal Procedure before the Magistrate concerned. A report from the concerned police station was also called for by the said Magistrate. Since no substance was found in the complaint of the applicant, who failed to make out a case for registration of criminal proceedings against the Respondents No. 2 to 4, therefore, the learned Magistrate dismissed his complaint. Revision against the said order was also dismissed by the learned Sessions Judge, Haridwar. Now, the applicant wants to lodge an FIR against the said Respondents for initiation of investigation and further consequential proceedings thereon, which, in the view of the facts and circumstances of the case, would be a futile exercise and shall be the abuse of process of Court.

6. Moreover, while dismissing the revision of the applicant, the learned Sessions Judge relied upon a judgment of the Hon'ble Allahabad High Court delivered in case of Padahi Ram Vs. State of Uttar Pradesh and Another, wherein it was held that when the mutation proceedings were pending on the basis of an alleged forged sale deed, then no Court should order the registration and investigation of the case u/s 156(3) CrPC. This Court is in agreement with the said observation. Furthermore, it is not prima facie apparent that the said sale deed is forged one. If the applicant alleges so, then he should have approached the Civil Court for redressal of his grievance. I find no illegality or irregularity in the orders passed by the courts below.

7. For the reasons recorded above, this criminal miscellaneous application is

devoid of merit and deserves to be dismissed at the threshold. The same is dismissed accordingly.