
(2011) 05 UK CK 0131

In the Uttarakhand High Court

Case No : Criminal Miscellaneous Application (C-482) No. 789 of 2005

Tej Singh

APPELLANT

Vs

State of Uttaranchal (Uttarakhand) and Satish Kumar

RESPONDENT

Date of Decision : 21-05-2011

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Negotiable Instruments Act, 1881 (NI) — Section 138
Penal Code, 1860 (IPC) — Section 420, 506

Citation : (2011) 05 UK CK 0131

Hon'ble Judges : Prafulla C. Pant, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Prafulla C. Pant, J.—Heard.

2. By means of this petition, moved u/s 482 of the Code of Criminal Procedure, 1973, the Petitioner has sought quashing of the proceedings of Criminal Case No. 2012 of 2003, State v. Tej Singh, relating to offences punishable u/s 420, 506 of I.P.C., pending in the court of Chief Judicial Magistrate, Dehradun.

3. In nutshell, the allegations in the first information report are that the Petitioner agreed to execute sale deed in respect of property situated in Khasra No. 54 of Mohkampur Kalan to the complainant, but did not execute the sale deed. Thereafter, the two parties entered into compromise, and it was agreed that on making payment of Rs. 3,30,000/- by the Petitioner to the complainant, he (complainant) shall not take any action. It is alleged in the first information report that when the cheque of Rs. 3,30,000/- given by the Petitioner was presented before the Bankers, the same got dishonoured with the endorsement "insufficiency of funds".

4. Learned Counsel for the Petitioner submitted that it is a simple case of offence punishable u/s 138 of the Negotiable Instruments Act, as such, the impugned

trial cannot proceed further.

5. Having gone through the affidavit, counter affidavit and rejoinder affidavit on record, and after going through the contents of the first information report, this Court finds that the complainant has in substance alleged cheating committed by the Petitioner with him. After investigation, charge sheet was filed in respect of offences punishable u/s 420 and 506 of I.P.C. against the Petitioner. Learned Counsel for the Petitioner submitted that cheque was never given by the Petitioner to the Respondent No. 2. It is a question of fact which cannot be examined by this Court in its jurisdiction u/s 482 of Code of Criminal Procedure It is for the trial court to examine whether the cheque was given or not, as alleged by the complainant.

6. In the above circumstances, without expressing any opinion as to the final merits of the case, this Court is of the view that the impugned trial needs no interference. It is observed that the Petitioner may raise all pleas of innocence, including legal pleas, before the trial court.

7. Therefore, the petition u/s 482 of Code of Criminal Procedure is dismissed with the observation that if the Petitioner Tej Singh surrenders before the court concerned, his bail application shall be heard and disposed of without unreasonable delay. Interim order dated 17.11.2005, passed by this Court, stands vacated. Registry is directed to inform the court concerned.