
(2021) 02 UK CK 0028

In the Uttarakhand High Court

Case No : Writ Petition (Criminal) No. 308 Of 2021

V. Rishi Batra And Another

APPELLANT

Vs

State Of Uttarakhand And Others

RESPONDENT

Date of Decision : 18-02-2021

Acts Referred:

Indian Penal Code, 1860 — Section 406, 506
Constitution Of India, 1950 — Article 226

Citation : (2021) 02 UK CK 0028

Hon'ble Judges : Ravindra Maithani, J

Bench : Single Bench

Advocate : S.K. Shandilya, J.S. Virk, Rohit Dhyani, Gaurav Singh

Final Decision : Dismissed

Judgement

Ravindra Maithani, J

1. Instant writ petition has been filed for quashing of an FIR No.62 of 2021, under Sections 406 and 506 of IPC, Police Station Kotwali Jawalapur,

District Haridwar and also seeking directions that the petitioners may also not be arrested, pursuant to the FIR.

2. FIR in the instant case was lodged by respondent no.3 on 4.02.2021, under Sections 406 and 506 of IPC, at Police Station Kotwali Jawalapur,

District Haridwar. The son of the petitioners is a producer in film city Mumbai, who also runs a firm. The petitioners hatched a conspiracy by

associating the co-accused Shakun Batra inducing the informant to invest Rs. Ninety Lakh for the purpose of producing a film. It was in the year

2013, when son of the petitioners was to produce a film, the petitioners assured the informant that they would return three times the money invested

by the informant. Believing the petitioners, the informant gave Rs. Twenty Two

Lakh in cash to the petitioners and deposited Rs. Sixty Eight Lakh in the account of petitioner no.2 i.e. Darshan Batra on 23.07.2014. According to the FIR, thereafter the petitioners did not return the money, they avoided making payment. In fact, in the year 2019 at the behest of the petitioners, the informant and his son were attacked, in which, the driver of the informant and his son sustained injuries. There are other details in the FIR as well.

3. Learned counsel for the petitioners submits that this is a matter of land dealing between the petitioners and the informant as the advance payment of money was given by the informant but he did not turn-up for execution of the deed and no case is made out.

4. Learned State Counsel would submit that FIR discloses commission of offence as Rs. Sixty Eight Lakh has been transferred in the account of petitioner no.2 i.e. Darshana Batra and no interference is being called for.

5. This is a petition under Article 226 of the Constitution of India. In case, FIR discloses commission of offence, normally no interference is warranted. At the time of the argument, learned Counsel for the petitioners submits that Rs. Sixty Eight Lakh was deposited in the account of the petitioner no.2 for purchase of property by the informant, but he did not turn-up for execution of the sale deed. On the other hand, in FIR it is

categorically stated that it is the petitioners who along with his son hatched conspiracy and induced the informant to cough-up Rs. Ninety Lakh. Rs.

Twenty Two Lakh, according to the FIR, was paid in cash and Rs. Sixty Eight through cheque.

6. What is the reliability, credibility and trustworthiness of the FIR, it definitely falls for scrutiny during investigation. At this stage, this Court could not record any finding on this aspect. As stated, FIR discloses commission of offence. Therefore, this Court sees no reason to interfere in the writ petition.

7. At this stage, learned counsel for the petitioners would submit that the petitioners apprehend that they may be arrested in a routine and mechanical manner therefore, directions may be issued in this regard.

8. Needless to say, arrest is not a mechanical act of the Investigating Officer. First and foremost, he has to ascertain the complicity of a person in the offence and thereafter, to weigh in his mind the need for arrest. This Court has

no doubt that the Investigating Officer, in the instant case, shall also follow the law on the subject of arrest, if any occasion to arrest arises in the instant case.

9. With the above observations, the writ petition stands dismissed.